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**CONSTITUTIONAL CONVENTION**  
**of the**  
**STATE OF MARYLAND**

**CHAMBER OF THE HOUSE OF DELEGATES**

**State Capitol**  
**Annapolis, Maryland**

**December 28, 1967 3:25 p.m.**

**HONORABLE H. VERNON ENEY,**  
**President**

**Reported by:**

**Dorothy Fitzgerald**  
**C. Hurban**

Maryland

KFM

1601

1967

A2

vol 34

File



P R O C E E D I N G S

December 28, 1967 - 3:25 p.m.

THE PRESIDENT: The Sergeant-at-Arms will  
clear the aisles and close the doors.

The Convention will please come to order.

The invocation this afternoon will be offered  
by Delegate Price.

Delegate Price.

DELEGATE PRICE: Let us pray.

Our Father, out of all our ignoble littleness  
lift us into a share of Thy greatness. Out of all our  
unforgivingness bring us into the atmosphere of Thy love.  
Out of our turbulence lead us into Thy peace. Out of  
all selfish ambitions raise us to an enduring passion  
for Thine everlasting Kingdom. Out of all fevers of  
imagination, all imperfections of will, all dullness of  
reasoning, lead us toward Thy perfection.

When we review our lives, we repent of them.  
We have so often been guilty of pettiness; we have let the  
moment obscure the hour, the hour the day, the day the  
year, the year the lifetime, the lifetime eternity. We





1 have measured events and people by our transient desires  
2 and have allowed tempests to arise because desires were not  
3 granted fulfillment. We have become excited over little  
4 things. We have permitted anger over matters so insignificant  
5 as soon to be forgotten.

6 We have become absorbed in adventures which ended  
7 in dust. We have pursued fleeting fantasies of the  
8 imagination. We have plucked the apples of pleasure only  
9 to find them dead ashes on our lips. We have often  
10 tangled our human relationships so that discord and barren-  
11 ness have attended what should have been harmonious and  
12 fruitful. Forgive us. Create within us new hearts.

13 Lend us the blessed influences of Thy divine  
14 Spirit to make us worthy of the tragic hour, and competent  
15 for its sobering responsibilities. Amen.

16 THE PRESIDENT: Roll call.

17 (Whereupon, a roll call was taken.)

18 THE PRESIDENT: Has every delegate answered  
19 roll call? The Clerk will record the roll call.

20 There being a quorum present, the Convention  
21 is in session.



1           The Chair recognizes Delegate Powers, Chairman  
2 of the Committee on Calendar and Agenda.

3           DELEGATE POWERS:     Mr. President, I move the  
4 adoption of today's calendar.

5           THE PRESIDENT:     Is there a second?

6           (Whereupon, the motion was duly seconded.)

7           THE PRESIDENT:     All in favor signify by saying  
8 aye; contrary, no.   The ayes have it, it is so ordered.  
9 The calendar is adopted.

10           We will be obliged to take up the second readings  
11 of the committee recommendations in a somewhat different  
12 order than indicated in the calendar because of the fact  
13 that some errors have been discovered in the committee  
14 recommendations R&P-1, or rather in the amendment made by  
15 the Committee on Style.   These are being reprinted and  
16 are not yet here.   When they come over, I will ask you to  
17 substitute the corrected copy.

18           There are also some problems being worked on in  
19 connection with the recommendation of the Committee on  
20 State Finance, and therefore we will, when we come to that  
21 order of business, take up first Committee Recommendations





1 S&E-1 and S&E-2, then probably State Finance, and last the  
2 Rights and Preamble.

3 Are there any reports of committees, Mr. Clerk?

4 MR. BOWIE: None that I know of, sir.

5 THE PRESIDENT: I hand to the Journal Clerk  
6 a memorandum with respect to excused absences. This will  
7 not be read. It is available for inspection by any  
8 delegate or any member of the public.

9 I hand also to the Journal Clerk a memorandum  
10 from me with respect to certain appointments which should  
11 have been entered on the Journal quite some time ago.  
12 I will ask the Reading Clerk to read it.

13 MR. QUILLEN: "On September 12, 1967, I  
14 announced the appointment of certain acting non-delegate  
15 officers of the Convention pending consideration of  
16 Resolution No. 1 by the Convention. Thereafter, on  
17 September 13, Resolution No. 1 was adopted by the Convention  
18 following which I immediately appointed permanent non-  
19 delegate officers. I find, however, that I failed to  
20 enter on the journal notice of this appointment.

21 "Accordingly, will you please enter on the





1 journal of the Convention that on September 13, 1967, I  
2 appointed the following officers of the Convention:

3 "Robert J. Martineau, Secretary

4 "John C. Brooks, Chief of Staff

5 "Ira J. Wagonheim, Chief Clerk

6 "Richard F. Rothenburg, Sergeant at Arms

7 "David Hattrick, Parliamentarian

8 "Oden Bowie, Journal Clerk

9 "James Quillen, Reading Clerk"

10 THE PRESIDENT: Are there any motions or reso-  
11 lutions?

12 The Chair recognizes Delegate Weidemeyer on  
13 a matter of personal privilege.

14 DELEGATE WEIDEMEYER: Mr. President, I am very  
15 happy that you accorded me this opportunity to appear on  
16 the rostrum with you.

17 As you know, I am from Anne Arundel County,  
18 and the only delegate from the city of Annapolis, which has  
19 been your host town during this session of the Convention.  
20 I, along with all of the people of Annapolis, really  
21 appreciated your coming, and after seeing the way you



1 earnestly went to work and seriously performed and fairly  
2 conducted, I know that. I and all of them will be sorry to  
3 see the day when the convention ends and you have to leave us.

4 I wanted to present to you something that is  
5 symbolic of Annapolis, which is known as Old Crab Town,  
6 so I have for you a little crab pin which I hope you can  
7 wear in years to come. When you look at it, it will  
8 bring back fond memories of the days we spent together,  
9 so I am happy to present to you this little crab pin, and  
10 a little letter that in seriousness and in a jolly vein  
11 explains the symbolism of the crab.

12 Also, for Mrs. Eney, who has been so sweet and so  
13 patient and has never once crabbed to me about your being  
14 away from home so long, I want you to give her this with  
15 my fondest regards. It is a little pin that she can wear.

16 Now, Mr. President, for all of the delegates  
17 here, so that they might remember this historic occasion,  
18 I have -- and if the Pages will now distribute them --  
19 a little crab tie pin for the men and a little pin for  
20 the girls.

21 We say to you, for myself and the people of





1 Annapolis, it has been wonderful to have you here with us.

2 THE PRESIDENT: Thank you very much, Delegate  
3 Weidemeyer. (Applause)

4 THE PRESIDENT: By the standing ovation which  
5 you have just given to Delegate Weidemeyer, I think you  
6 have expressed much better than I could in words the feeling  
7 that you have of gratitude for this gesture on the part  
8 of Delegate Weidemeyer, and I think I can say for all of  
9 us we have been very happy to be here in Crab Town.  
10 I am not sure we will be too sorry to see our labors at  
11 an end, but our stay has been very, very pleasant. We  
12 thank you very much for your kind remembrance.

13 DELEGATE WEIDEMEYER: Mr. President, I might  
14 add this, that my secretary endorsed on the envelope  
15 Delegate H. Vernon Eney, but in my own handwriting I have  
16 written "and my President", underscored.

17 THE PRESIDENT: Thank you.

18 Delegate White.

19 DELEGATE WHITE: Mr. President, I wonder if  
20 the gentleman from Anne Arundel would accept an amendment  
21 to his statement. (Laughter).





1 THE PRESIDENT: Delegate Harry Taylor.

2 DELEGATE TAYLOR: Mr. President, the back row  
3 is really proud to claim Delegate Weidemeyer.

4 THE PRESIDENT: I think, as each of you has  
5 a letter, an identical letter from Delegate Weidemeyer,  
6 that it would be appropriate -- so that it will be on  
7 tape -- that I have the Reading Clerk read the letter to  
8 me, which is identical in form to all of them.

9 MR. QUILLEN: "Dear Delegate Eney:

10 "As a Delegate from Anne Arundel County to the  
11 Constitutional Convention of 1967, and the only Delegate who  
12 is a resident of the City of Annapolis, your host town during  
13 the Convention, it gives me great pleasure to express to  
14 you my personal enjoyment in having you here in our town  
15 for the Convention and to present to you this little  
16 memento to remind you, in years to come, of this historic  
17 assemblage to which all of us have contributed.

18 "The enclosed Crab made into either a pin or a  
19 tie clasp is emblematic of several things:

20 "(a) The Chesapeake Bay area is not only noted  
21 for its production of the finest oysters, soft shell clams,



1 rock fish and many species of marine life, but is also  
2 widely recognized for its great contribution to the economy  
3 of the State and for the pleasure it affords to the traveller,  
4 the sportsman, and the vacationer.

5 "(b) The City of Annapolis, where you have  
6 labored so diligently in the Convention, is located on the  
7 Chesapeake Bay and is, in fact, a part of it and has been often  
8 affectionately termed 'Crabtown.'

9 "(c) The birth, growth, and life cycle of a crab  
10 are somewhat analogous to the production of a new State  
11 Constitution in that:

12 "1. It starts off very small, in the Bay Area,  
13 and is expected to grow.

14 "2. It many times has to swim in deep and  
15 troubled waters.

16 "3. Whenever a claw is plucked off, another  
17 grows in its place.

18 "4. At times, the bite of its claws can  
19 cut deeply and inflict severe pain.

20 "5. When grown and caught or when caught  
21 before grown, a crab may be devoured and enjoyed for the





1 benefit of mankind, or it may be rashly discarded.

2 "During the Convention, I have, at every  
3 session, worn a Crab Tie Clasp, and I have explained to  
4 all concerned that the Crab was not at all indicative  
5 of the Town in which I lived and the people with whom I  
6 associated. No doubt there may be those who will contend  
7 that they should have been wearing the Crab while being  
8 forced to associate with me, but I must recognize and  
9 appreciate differing views and possibly they could be  
10 right, although I still have my doubts.

11 "Now, as we approach the end of the task assigned,  
12 I sincerely hope that this little Crab may serve in years  
13 to come to afford you many fond recollections of the  
14 months spent in my little Town and also assure you that  
15 the real pleasure of having you here and associating with  
16 each and everyone, is and will remain mine.

17 "With best wishes the coming year and the future,  
18 I am.

19 "Sincerely yours,

20 "C. Maurice Weidemeyer"

21 THE PRESIDENT: Thank you.

★



1           The next item on the calendar for consideration  
2 is the report of the Committee on Style, Drafting and  
3 Arrangement No. S&D-11. This is the report with respect  
4 to Committee Recommendation, improperly marked S&D-11, and  
5 should be marked S&E-1 and S&E-2.

6           The Chair recognizes Delegate Penniman, Chairman  
7 of the Committee, and suggests he come forward to the reading  
8 desk.

9           Delegate E. J. Clarke?

10          DELEGATE E. J. CLARKE: Personal privilege, sir.

11          THE PRESIDENT: State the privilege.

12          DELEGATE E. J. CLARKE: Mr. President, ladies  
13 and gentlemen of the Convention, seated in the balcony to  
14 the rear of the chamber is the Secretary of the Montgomery  
15 County State Central Committee, Mrs. Bobby Kendall, her  
16 mother, Mrs. Barry, and her charming daughter Katherin.  
17 Please extend a warm welcome. (Applause.)

18          THE PRESIDENT: In order that the questioning  
19 of both the Chairman of the Committee on Style and the  
20 Chairman of the Committee on Suffrage and Elections may  
21 proceed with a little greater ease, I will suggest,





1 Delegate Koss, that you come forward to the desk that you  
2 occupy when presenting your committee report, and if Mr..  
3 Smolka, the staff adviser, can take the desk next to her  
4 I think we will be in better shape.

5 Delegate Penniman.

6 DELEGATE PENNIMAN: As you will see, there  
7 are very few changes that have been made by the Committee  
8 on Style, Drafting and Arrangement in S&E-1 and 2.

9 In 2.01 there is established a definition of a  
10 qualified voter who is one who shall meet all the qualifi-  
11 cations which are laid down in the constitution and who is  
12 also registered, so the crucial thing is the use of the  
13 word "qualified", that "qualified" does include registered.

14 Section 2.02 is, with slight modifications,  
15 the provision which came from the floor which was an  
16 amendment to the original provisions which came to the  
17 floor from the committee and which has certain consequences  
18 for the provisions in 2.05 relating to the opportunity  
19 of municipal corporations to allow property owners who  
20 are not residents of a municipality to vote, but I will  
21 mention this again in 2.05.

There is nothing in 2.03 or 2.04 which is



1 really any change from the wording which came to our  
2 committee.

3 In 2.05, as I started to suggest, there has  
4 been some modification in wording to make sure that it  
5 includes but conforms to what had been done in 2.02.

6 In other words, so long as the General Assembly  
7 has not acted, the municipal corporations may, if they  
8 wish, include non-resident property owners among their  
9 voters for municipal elections only.

10 There is a notation with respect to 2.07  
11 which is in the commentary that there seems to be a contra-  
12 diction in Section 2.07, "The General Assembly may establish  
13 a state agency to assure uniform administration of laws  
14 pursuant to this section."

15 Some of the laws referred to in this section  
16 are municipal laws which appear to be or permit variations  
17 in the administration of municipal elections. One sentence  
18 seems to say that the law may vary and another seems to  
19 provide for an agency to assure uniform administration.

20 It is my understanding that there will be an  
21 amendment from the floor to cover this problem which appeared





1 to exist.

2 In 2.08, under "General Elections", we have made  
3 only minor changes and the changes are in the order, not  
4 in the content in any way, except that we changed the  
5 words "officials serving staggered terms" to "overlapping  
6 terms", which was an item which Delegate Marion mentioned  
7 yesterday in connection with the discussions on the floor  
8 at that time.

9 Under "Power of Referendum", the opening lines  
10 are virtually the ones which were there as a result of  
11 discussions on the floor in the Committee of the Whole.  
12 In Section 2 we have removed some portions of Section 2  
13 which should -- I see a misnumbering here -- no, I am  
14 sorry.

15 In 2.10, if you will think of this all as a  
16 single paragraph, then the numbering is correct. A portion  
17 of 2.10, namely "all laws of the General Assembly", and so  
18 on, has been moved down to 2.12. Again, it is largely  
19 a sequential matter.

20 Mr. Chairman, if I may note in 2.11, twice we  
21 have referred to "registered voter" when the words should



1 have been "qualified voter", and I would hope it could  
2 be changed.

3 Section 2.12 is now one which includes the portion  
4 moved down from 2.10, which puts it in sequential order  
5 and clarifies the timing of the suspension of the laws  
6 and the period of that suspension which is the same as  
7 provided in the original decision of the committee and of  
8 the Committee of the Whole, but it is, I think, made  
9 absolutely clear in Section 6.13 which is a continuation  
10 of the effects of the memorandum and is again part of  
11 the slight change in wording, but to correspond with the  
12 sequence.

13 Again, one more error on our part, on the  
14 part of the committee, and that is in line 27 on page 5,  
15 there is "provided for" when it should have been  
16 "prescribed", and if I may take you back to page 3, in  
17 line 24, and again in line 42, we say "provide" when we  
18 should have said "prescribe".

19 The wisdom of Delegate Marvin Smith came too  
20 late to affect the failures of our original draft, so it  
21 went in with these "provides" when they should have been





1 "prescribes".

2 THE PRESIDENT: Also on line 9 on page 2?

3 DELEGATE PENNIMAN: In line 9 on page 2 there  
4 is another "provide" that should be "prescribe". This has  
5 turned into a "hunt and find" game we all indulge in now.

6 DELEGATE BAMBERGER: How about "establish" in  
7 line 4?

8 DELEGATE PENNIMAN: I think "establish" is safe  
9 enough. I do not think the word "prescribe" necessarily  
10 precludes the use of another word if it is also descriptive.

11 THE PRESIDENT: I am not sure I followed you.  
12 Are you suggesting that in line 4 on page 2 the word  
13 "establish" be changed to "prescribe"?

14 DELEGATE PENNIMAN: This is line 4?

15 THE PRESIDENT: Line 4 on page 2. I think  
16 you could use "prescribe" instead of "establish" there,  
17 too, but I wasn't clear whether you were saying you  
18 recommended that or not.

19 DELEGATE PENNIMAN: It should be "prescribe"  
20 there, you are quite right.

21 THE PRESIDENT: Also in line 49 on the same page?



1 DELEGATE BAMBERGER: And line 21.

2 DELEGATE PENNIMAN: Yes.

3 THE PRESIDENT: And line 21.

4 DELEGATE BAMBERGER: And also line 10.

5 DELEGATE PENNIMAN: And also line 10, that  
6 is right.

7 THE PRESIDENT: For what purpose does Delegate  
8 Marion rise?

9 DELEGATE MARION: I wasn't sure whether Chairman  
10 Penniman mentioned the insertion of the word "a" in line 21  
11 on page 2, The "s" on "requirements" in line 22 is  
12 deleted, although it is hard to see it, and in typing  
13 the word "a" was omitted between "establish" and "lesser".

14 THE PRESIDENT: Where does the "a" go?

15 DELEGATE MARION: Between "establish" --

16 DELEGATE PENNIMAN: Now between "prescribe"  
17 and "lesser" on line 21.

18 THE PRESIDENT: Is this a new word or a typographical omission of what was there?

19 DELEGATE PENNIMAN: It is an omission.

20 THE PRESIDENT: I assume it is a new word  
21





1 judging by what was there before, the italicized, in other  
2 words.

3 DELEGATE PENNIMAN: Yes -- I am sorry, it  
4 should be italicized. That is correct.

5 THE PRESIDENT: Is there any objection to  
6 considering the Committee's amendments to make these changes  
7 to substitute for the word "establish" the word "prescribe"  
8 in lines 4, 10, 21 and 49, and on page 2, to add the word  
9 "a" after the word "prescribe" in line 21 on page 2, to  
10 substitute for the word "provide" the word "prescribe"  
11 in line 9 on page 2, in line 24 and line 42 on page 3,  
12 and in line 27 on page 5?

13 Delegate Cardin.

14 DELEGATE CARDIN: Mr. President, I believe  
15 that I did not hear -- I may have missed -- the word  
16 "provide" that we are using is providing specifically,  
17 providing uniform administration, providing for absentee?

18 THE PRESIDENT: Where?

19 DELEGATE CARDIN: On line 14 on page 3,  
20 actually it begins with line 11, page 3, 13, 14, and  
21 then "establish by law" on line 17.



1 THE PRESIDENT: No, that was not intended to  
2 be changed.

3 DELEGATE CARDIN: The "establish by law"?

4 THE PRESIDENT: In which line?

5 DELEGATE CARDIN: Line 17.

6 THE PRESIDENT: Yes, I assume that would be.

7 DELEGATE PENNIMAN: That would be, yes.

8 THE PRESIDENT: On line 17, page 3, substitute  
9 the word "prescribe" for the word "establish".

10 Delegate Cardin, what were the others? On  
11 line 10, the word "establish"? I take it that you did not  
12 intend to use "prescribe" there, Delegate Penniman?

13 DELEGATE PENNIMAN: No, I did not.

14 DELEGATE CARDIN: And line 21?

15 THE PRESIDENT: On line 21, I assume you do  
16 intend --

17 DELEGATE PENNIMAN: We do intend to use it for  
18 "establish", yes.

19 THE PRESIDENT: You do intend to use "prescribe"  
20 there in line 21?

21 DELEGATE PENNIMAN: That is correct.



1 THE PRESIDENT: And you mentioned you do not  
2 intend to substitute "prescribe" for "provide" in line 14  
3 on page 3, is that correct?

4 DELEGATE PENNIMAN: You are correct.

5 THE PRESIDENT: Very well. And I assume you  
6 do not intend to substitute "prescribe" for "provide"  
7 in line 11 on page 3, is that correct?

8 DELEGATE PENNIMAN: That is correct.

9 THE PRESIDENT: Is there any objection to the  
10 changes noted?

11 Delegate Koss.

12 DELEGATE KOSS: If I might, Mr. President,  
13 I would like to address a question.

14 It seems to me, first of all --

15 THE PRESIDENT: Let me get these corrections  
16 first. Does this have to do with the corrections?

17 DELEGATE KOSS: One of them, yes.

18 THE PRESIDENT: All right.

19 DELEGATE KOSS: I would have no objection to  
20 generally using the word "prescribe" for the word  
21 "provide" or "establish" except on page 3 in line 17





1 where you are talking about establishing a state agency.  
2 It seems to me the connotation of the word "establish"  
3 as opposed to the use of the word "prescribe" is slightly  
4 different than it was in the other places where the  
5 corrections have been made.

6 THE PRESIDENT: I think Delegate Koss has  
7 a point.

8 DELEGATE PENNIMAN: She is quite correct.

9 THE PRESIDENT: Do not substitute the word  
10 "prescribe" for "establish" in line 17 on page 3.

11 Delegate White.

12 DELEGATE WHITE: I was just noticing on page 2,  
13 line 4, you say there "may establish by law", and in line  
14 20, at the end of the sentence, it says "shall by law  
15 establish".

16 It seems this doesn't follow a consistent  
17 pattern, even on the next page. One time you say  
18 "establish by law" ahead of a principal verb, and the next  
19 time you follow the verb, and I was wondering if there is  
20 any reason for not being consistent.

21 DELEGATE PENNIMAN: The reason for not being



1 consistent was that we made an oversight.

2 THE PRESIDENT: Delegate White.

3 DELEGATE WHITE: I was just asking in good faith.  
4 I wondered if that was the reason.

5 DELEGATE PENNIMAN: In general we have followed  
6 the policy of not dividing the verb, so it is an oversight  
7 on our part.

8 THE PRESIDENT: So that the Chair will be  
9 clear about it and everyone else will have the corrections,  
10 what are the changes you are now suggesting?

11 DELEGATE PENNIMAN: He is saying that we said  
12 "may prescribe by law" in line 4, which is correct, and  
13 in line 20 and 21 we had split the verb, and it should not  
14 have been split. It should have said "shall prescribe  
15 by law".

16 THE PRESIDENT: I am lost. In line 20 and 21,  
17 I didn't hear what you said.

18 DELEGATE PENNIMAN: "Shall prescribe by law"  
19 rather than dividing the verb the way it now does.

20 THE PRESIDENT: Is that the only other place?

21 DELEGATE PENNIMAN: These are the only ones





1 that I am aware of. I hope that is all.

2 THE PRESIDENT: So that the record will be  
3 clear, the Chair understands there is no objection to  
4 the following modifications in the committee amendments  
5 to S&E-1 and 2.

6 Page 2, line 4, strike the word "establish",  
7 insert the word "prescribe".

8 Line 9, strike the word "provide", insert the  
9 word "prescribe".

10 Line 10, strike the word "establish", insert  
11 the word "prescribe".

12 Line 20, after the word "shall", insert the word  
13 "prescribe".

14 Line 21, strike the word "establish", insert the  
15 word "a".

16 Line 49, strike the word "establish", insert the  
17 word "prescribe".

18 On page 3, line 17, strike the word "establish",  
19 insert the word -- no, I am sorry, no change in line 17  
20 on page 3.

21 In line 21 on page 3, strike the word "establish",



1 insert the word "prescribe".

2 In line 24, strike the word "provide", insert  
3 the word "prescribe".

4 In line 42, strike the word "provided",  
5 insert the word "prescribed".

6 On page 5, line 27, strike the word "provided",  
7 insert the word "prescribed".

8 Now, I understand, Delegate Penniman, that  
9 in addition you desire on page 4, in line 26, and in line  
10 30, to strike the word "registered" and insert the word  
11 "qualified", is that it?

12 DELEGATE PENNIMAN: That is correct.

13 THE PRESIDENT: Is there any objection?

14 Delegate Marvin Smith.

15 DELEGATE MARVIN SMITH: Mr. President, might I  
16 ask if they are really sure they want to do that?

17 THE PRESIDENT: Let me make this suggestion.  
18 I don't want to get the debate on whether the recommendation  
19 is or isn't proper. I think this will come when you have  
20 a discussion of Section 2.01. I just want to get the  
21 committee recommendations at the moment.



1           The same change, strike "registered" and insert  
2 "qualified" in line 30 on page 4.

3           There being no objection, the committee's  
4 amendments to Committee Recommendation S&E-1 and S&E-2  
5 are modified in those particulars.

6           This does not mean that these amendments have  
7 been adopted. They are before you for consideration,  
8 they are pending. In other words, we are merely correcting  
9 the piece of paper that you have in front of you so that  
10 you will understand the committee's recommendations. This  
11 does not mean that you agree with them.

12           Delegate Winslow.

13           DELEGATE WINSLOW: Mr. President, I think  
14 there is a change also on page 5 that you just now omitted,  
15 in line 27.

16           THE PRESIDENT: I thought I had called that  
17 change -- the word "provided" to "prescribed". I thought  
18 I had. If not, that is a change, on line 5, page 27,  
19 strike the word "provided" and insert the word "prescribed".

20           Delegate Winslow.

21           DELEGATE WINSLOW: On page 2, as you were just





1 now enumerating the changes, in line 20 and 21 I think  
2 you omitted the words "by law" which should come after the  
3 word "prescribe".

4 THE PRESIDENT: No, as I understand it, what the  
5 committee did was insert the word "prescribe" after the  
6 word "shall" in line 20, and to strike out from line 21  
7 the word "establish" and insert the word "a".

8 Are there any questions of the committee chairman?  
9 Delegate Cardin.

10 DELEGATE CARDIN: I would just like to establish,  
11 Delegate Penniman, that on line 42 on page 3 the separation  
12 of "prescribe" then "by the General Assembly by law",  
13 is that there is a difference in meaning, that there  
14 the General Assembly may prescribe by law as opposed to  
15 the instrument of government of a county, is that correct?

16 DELEGATE PENNIMAN: The instrument of the  
17 county is in effect the charter, and it is provided by the  
18 charter.

19 THE PRESIDENT: Delegate Cardin.

20 DELEGATE CARDIN: As I understand it, that is  
21 why the terminology "prescribed by the General Assembly



1 by law" is used rather than the form we have used in the  
2 other sections.

3 THE PRESIDENT: I am not sure I follow your  
4 point.

5 DELEGATE CARDIN: If the General Assembly  
6 will prescribe that by law, the county must do it in its  
7 instrumentality, not by law.

8 THE PRESIDENT: Do it by the instrument of  
9 government, the charter, in other words.

10 DELEGATE CARDIN: Right, rather than by law.

11 THE PRESIDENT: That is correct.

12 DELEGATE PENNIMAN: This is the way it came  
13 from the committee.

14 THE PRESIDENT: Are there any other questions  
15 of the chairman of the Committee on Style?

16 DELEGATE RYBCZYNSKI: Mr. Chairman, on page 2,  
17 Section 2.05, you have changed on line 39 the plural to  
18 the singular. We had municipal elections and you changed  
19 that to a municipal election.

20 We want to be certain that this will not require  
21 a renewal of the right before each election that this will





1 be perpetual until changed by law.

2 DELEGATE PENNIMAN: That is correct.

3 DELEGATE RYBCZYNSKI: I just wanted to make sure  
4 that is the understanding.

5 Will you agree a first reading makes it look like  
6 the right can be given for a specific election, but this is  
7 not what you wanted to say, is this right?

8 THE PRESIDENT: What line are you directing  
9 this to, Delegate Rybczynski?

10 DELEGATE RYBCZYNSKI: Line 39, sir -- "may be  
11 permitted by law to vote in a municipal election".

12 The committee wants that to read that once  
13 the right is granted by the municipal corporation that  
14 the right will go on forever until changed by that  
15 municipal corporation. Does this change that you have  
16 made change the intent in any way?

17 DELEGATE PENNIMAN: No, it in no way changes  
18 the intent.

19 THE PRESIDENT: Delegate Winslow.

20 DELEGATE WINSLOW: Mr. President, on page 1,  
21 line 7, in the title of Section 2.01, the wording is



1 now "Voters in Federal, State and County Elections", and  
2 in line 18 again the word "federal" is used.

3 Since the term "federal" is normally applied  
4 to the nature of the union or the nature of the system  
5 of government, might not the term "national" be a better  
6 word to use in those two cases?

7 DELEGATE PENNIMAN: It came to us as "federal",  
8 as you can see. There would be no difference if the  
9 word had been "national", and I would presume that there  
10 are some who would assume that "national" is a more  
11 correct term.

12 THE PRESIDENT: Delegate Koss.

13 DELEGATE KOSS: Delegate Winslow, it is my  
14 understanding that in a sense there are no national  
15 elections, since the state conducts the elections as part  
16 of a federal system for the officers that serve either  
17 in our national government or as our national President.

18 THE PRESIDENT: Delegate Winslow, did you have  
19 a further question?

20 DELEGATE WINSLOW: No, I don't know that I do,  
21 although I am not very happy about the use of the term.



1 THE PRESIDENT: Are there any other questions  
2 of the committee chairman?

3 (There was no response.)

4 THE PRESIDENT: The Chair hears none.

5 Are there any questions of the chairman of the  
6 Committee on Suffrage and Elections as a result of these  
7 style changes?

8 Very well, Delegate Penniman, you may retire  
9 to your seat.

10 Are there any amendments with respect to the style  
11 changes as to Section 2.01?

12 (There was no response.)

13 THE PRESIDENT: The Chair hears none.

14 Are there any amendments as to style changes  
15 with respect to Section 2.02?

16 (There was no response.)

17 THE PRESIDENT: The Chair hears none.

18 Are there any amendments with respect to style  
19 changes as to Section 2.03?

20 (There was no response.)

21 THE PRESIDENT: The Chair hears none.





1 THE PRESIDENT: Are there any amendments with  
2 respect to style changes to Section 2.04?

3 (There was no response.)

4 THE PRESIDENT: The Chair hears none.  
5 Are there any amendments with respect to style  
6 changes as to Section 2.05?

7 (There was no response.)

8 THE PRESIDENT: The Chair hears none.  
9 Are there any amendments as to style with respect  
10 to Section 2.06?

11 (There was no response.)

12 THE PRESIDENT: The Chair hears none.  
13 Are there any amendments as to style with respect  
14 to Section 2.07?

15 DELEGATE DELLA: Mr. Chairman, will the chairman  
16 of the committee yield for a question?

17 THE PRESIDENT: Delegate Koss, will you take the  
18 floor to yield for a question?

19 DELEGATE KOSS: Yes, sir.

20 THE PRESIDENT: Delegate Della.

21 DELEGATE DELLA: Beginning on line 16 --



1 THE PRESIDENT: What page?

2 DELEGATE DELLA: On page 3, Section 2.07,  
3 "establish by law a state agency", does your committee  
4 intend to cover the local boards even though they are  
5 paid by the local governments?

6 THE PRESIDENT: What do you mean by saying  
7 "to cover the local boards"?

8 DELEGATE DELLA: State agencies -- by "state  
9 agencies", does that mean the local boards that we now  
10 have?

11 THE PRESIDENT: My recollection from the  
12 presentation earlier was that this provision, which is new,  
13 was intended to provide for a state agency which would  
14 supervise but not supersede local boards.

15 Delegate Koss?

16 DELEGATE KOSS: That is correct.

17 THE PRESIDENT: Delegate Della.

18 DELEGATE DELLA: It is a different thought  
19 altogether, then, a new agency that you are going to  
20 create?

21 THE PRESIDENT: Delegate Koss.





1 DELEGATE KOSS: Well, first of all, I think the  
2 word "agency" is not meant to be a department, as such.  
3 It is an agent of the state. That is the way in which  
4 the word "agency" is used, to supervise, to assure  
5 uniformity of administration by the local county boards  
6 of election supervisors.

7 THE PRESIDENT: Delegate Koss, may I break in?

8 My recollection of the committee report was  
9 that you pointed out that this was a new concept, a new  
10 agency, it has no counterpart either in the present  
11 constitution or in the present election law, is that  
12 correct?

13 DELEGATE KOSS: That is correct.

14 THE PRESIDENT: Delegate Della.

15 DELEGATE DELLA: Then this will be a new  
16 agency created by the Legislature or the General Assembly  
17 to supervise and insure the uniform administration of laws.

18 Now, will they supersede the authority granted  
19 to the local election boards?

20 DELEGATE KOSS: I am not quite sure I understand  
21 your question. If I may, let me try to answer it, and



1 then respond to your original question.

2 THE PRESIDENT: I think he is asking you whether  
3 this new agency is intended to supervise the local boards  
4 of election.

5 DELEGATE KOSS: Yes.

6 THE PRESIDENT: Is it intended to supersede  
7 the local boards of election supervisors?

8 DELEGATE KOSS: No. I am not quite sure I  
9 understand what Delegate Della means by "supersede".

10 THE PRESIDENT: Take the place of.

11 DELEGATE KOSS: No.

12 THE PRESIDENT: Do you contemplate abolishment  
13 of the local boards?

14 DELEGATE KOSS: No, absolutely not.

15 THE PRESIDENT: Delegate Della.

16 DELEGATE DELLA: There is a difference between  
17 election boards -- some of them are on merit systems, others  
18 are just appointed by the local boards, and I am just  
19 wondering whether this state agency would supervise all of  
20 the employment of the employees.

21 THE PRESIDENT: Delegate Koss.



1 DELEGATE KOSS: Delegate Della, this does  
2 not go in any way, shape or form to the method of hiring  
3 or to the status of local boards of election supervisors.  
4 In the hearings before the committee, the election officials  
5 from the counties said that one of the great needs in this  
6 state was for the uniform administration of the election laws  
7 for the simple reason that now, for instance, one of the  
8 problems that was presented to us was that each board of  
9 election supervisors has the authority to employ their own  
10 attorney and, as a result, on a given law affecting the  
11 election procedures you have 24 different interpretations.

12 The Maryland Association of Election Officials  
13 felt that it was necessary to have an agency, and I am  
14 not, nor did the committee intend to mandate a department  
15 at the state level who would be available to all of the  
16 boards of election supervisors of the counties and of the  
17 City of Baltimore to help achieve uniformity in the  
18 administration of election laws in the state of Maryland.

19 THE PRESIDENT: Delegate Della, I think the  
20 Chair could amplify that a little based on the discussion  
21 before the committee and before the Committee on Suffrage





1 and Elections and before the Committee of the Whole.

2 As I am sure you know, the Attorney General  
3 of Maryland is counsel to the board of supervisors of  
4 elections of Baltimore City only. Every county board has  
5 its own counsel, and this has resulted in the situation  
6 where there is no uniformity of interpretation or  
7 administration except to the extent that counsel for local  
8 county boards decide to follow the opinions of the Attorney  
9 General.

10 The Association referred to by Delegate Koss  
11 strongly urged that either the Attorney General or some  
12 agency be able to prescribe uniform interpretation,  
13 and I think that is what is intended here.

14 Delegate Della.

15 DELEGATE DELLA: If that is the only intent,  
16 Mr. President, that is perfectly all right. I didn't know  
17 whether this was going to supersede the local boards or not.

18 THE PRESIDENT: No, it is not intended to.  
19 It is intended to provide a means by which the election laws  
20 can be interpreted and applied uniformly throughout the  
21 state.



1 Are there any further questions of the committee  
2 chairman with respect to the style amendments?

3 Are there any amendments as to style with respect  
4 to Section 2.07?

5 With respect to Section 2.08?

6 With respect to Section 2.09?

7 With respect to Section 2.10?

8 With respect to Section 2.11?

9 Delegate Marvin Smith?

10 DELEGATE MARVIN SMITH: Mr. President, I am  
11 not sure about the procedure, but if the proper procedure  
12 would be to move to not accept the amendment of the  
13 Committee on Style wherein on line 26 they substituted  
14 the word "qualified" for "registered", I would like to  
15 so move and explain --

16 THE PRESIDENT: Under the procedure which  
17 we have announced earlier to be followed, rather than  
18 have such a motion or amendment this can be accomplished  
19 simply by a delegate requesting the Chair to submit  
20 separately the amendments offered by the committee with  
21 respect to any section.





1           At that time a vote against the amendment would  
2 accomplish the purpose.

3           Are there any other amendments with respect to  
4 Section 2.11?

5           Any amendments with respect to Section 2.12?

6           Any amendments with respect to Section 2.13?

7           The Chair hears none.

8           I take it, Delegate Smith, that you desire  
9 to have submitted separately the question of approval of  
10 the amendments suggested by the committee with respect  
11 to Section 2.11?

12           DELEGATE MARVIN SMITH:     Two of them, Mr.  
13 President.

14           THE PRESIDENT:     Which is the other section?

15           DELEGATE MARVIN SMITH:     By two of them, I meant  
16 two of them in Section 2.11.

17           THE PRESIDENT:     Both in Section 2.11?

18           DELEGATE MARVIN SMITH:     Yes, sir.

19           THE PRESIDENT:     Very well.

20           Delegate Winslow.

21           DELEGATE WINSLOW:     Mr. President, I did not



1 rise when you went over Section 2.01 because I am not sure  
2 that the amendment I have prepared is in order. It is  
3 an amendment to change the word "federal" to the word  
4 "national" in the two places where it occurs in that  
5 section.

6 THE PRESIDENT: The Chair thinks that would be  
7 an amendment of style and would be proper at this point.

8 DELEGATE WINSLOW: I had asked the office to  
9 prepare that, but thinking this would not come up on the  
10 agenda until later in the day I am not sure it is ready.  
11 I asked for it about an hour or an hour and a half ago.

12 THE PRESIDENT: Is the Chief Page here?

13 Was that given to Mr. Benson, Delegate Winslow?

14 DELEGATE WINSLOW: It was, sir.

15 THE PRESIDENT: We will check on it. The two  
16 changes you would make would be to substitute the word  
17 "national" for the word "federal" in lines 7 and 18?

18 DELEGATE WINSLOW: Right.

19 THE PRESIDENT: Is there any objection to  
20 considering an amendment to Section 2.01 to substitute the word  
21 "national" for the word "federal" in lines 7 and 18 on



1 page 1, notwithstanding the fact that it has not been  
2 printed? Apparently there is no objection.

3 We would designate this as Amendment 1; although  
4 it is two amendments we will treat it as one. Amendment 1  
5 is to substitute for the word "federal" in lines 7 and 18  
6 on page 1 the word "national".

7 Is the amendment seconded?

8 (Whereupon, the motion was duly seconded.)

9 THE PRESIDENT: The Chair recognizes Delegate  
10 Winslow to speak to the amendment.

11 DELEGATE WINSLOW: Mr. President, I will speak  
12 very briefly.

13 In answer to my question to Chairman Koss a  
14 few minutes ago, the explanation was made that the word  
15 "federal" was used here because there are no such things  
16 as national elections.

17 May I point out that by the same token there  
18 are no such things as federal elections, either, but all  
19 elections in this country are held at the state level, not  
20 at the national or what is called here the federal level.

21 It is merely a matter of terminology, and I





1 submit that the preferred terminology in this case is  
2 "national" rather than "federal", because what is involved  
3 in what is here called a federal election is intended to  
4 be the election of the President and Vice President, and they  
5 are officers of the national government, and therefore the  
6 preferred term among writers on constitutional and political  
7 matters is "national" rather than "federal".

8 THE PRESIDENT: Delegate Penniman.

9 DELEGATE PENNIMAN: It is true that we elect  
10 national officers in the elections which are held within  
11 the states, and if we were to be wholly correct in this word-  
12 ing we would speak about the election of national officers  
13 meaning the President and the Vice President in state  
14 elections.

15 Since we have not gone to that length, it seems  
16 to me that in terms of the understanding of the average  
17 reader of this document or of the lawyer reading this  
18 document, there would be no doubt that the same persons  
19 were intended in either case.

20 I hold no strong views on the matter, but we  
21 did know that the committee had discussed it, and we



1 therefore had not changed it.

2 THE PRESIDENT: Delegate Koss, did you want to  
3 make any comment with respect to the amendment?

4 DELEGATE KOSS: No.

5 THE PRESIDENT: Is there any further discussion?  
6 Delegate Burdette.

7 DELEGATE BURDETTE: Mr. President, I might say  
8 for myself that in discussion in the Committee on Style  
9 where this had arisen there was some feeling that the  
10 term "federal" to be understandable to all, that perhaps  
11 the Committee on Style got itself in awkward language by  
12 changing to "national" since the quite precise terminology  
13 would be the election of national officers rather than  
14 a national election, but the point is well made by  
15 Delegate Winslow that the term "federal election" is also  
16 inaccurate.

17 Let me say, Mr. President, that in my judgment  
18 the term "federal" properly means the states in union,  
19 it is a system in which Maryland is as much a part of the  
20 federal system as is the central government of the United  
21 States of America.





1 I, for one, would prefer the term "national"  
2 under these circumstances, and will support the motion  
3 made by Delegate Winslow.

4 I do not think that this has come to a vote  
5 of strong controversy in the Committee on Style, but I  
6 certainly would be glad to be corrected if I am mistaken.



1 THE PRESIDENT: Delegate Macdonald.

2 DELEGATE MACDONALD: Mr. President, fellow  
3 delegates, I don't think it is terribly important whether  
4 we use the term "federal" or "national", but I do think that  
5 the term "federal", which is in the committee report, is  
6 more expressive of what we intend. We are talking not  
7 only about electing a President and Vice President, we are  
8 also talking about electing a Senator to the United States  
9 Senate, and Congressmen. I think that the term "federal"  
10 suggests the federal system, and would include all those  
11 officers who are elective officers of the federal system.

12 I think it would be the preferable term.

13 THE PRESIDENT: Is there any other discussion?  
14 Are you ready for the question?

15 The Clerk will ring the quorum bell.

16 The question arises on the adoption of amendment  
17 No. 1 to substitute the word "national" for the word  
18 "federal" in lines 7 and 18 on page 1 of committee  
19 recommendation S&E 1 and 2. A vote Aye is a vote in favor  
20 of the amendment. A vote No is a vote against.

21 Cast your votes.



1 Has every delegate voted?

2 Does any delegate desire to change his vote?

3 Delegate James Clark.

4 DELEGATE J. CLARK: Aye.

5 THE PRESIDENT: Delegate James Clark votes Aye.

6 Has every delegate voted? Does any delegate  
7 desire to change his vote?

8 The Clerk will record the vote.

9 There being 65 votes in the affirmative and  
10 50 in the negative, the amendment is adopted.

11 Are there any other amendments with respect to  
12 any of the sections other than section 2.11?

13 Section 2.11 will be submitted to a separate  
14 vote. The question now arises on the adoption of the  
15 committee recommendations, committee amendments to  
16 committee recommendation S&E-2 and all sections other  
17 than section 2.11.

18 For what purpose does Delegate Smith rise?

19 DELEGATE SMITH: To withdraw my objection.

20 THE PRESIDENT: Very well.

21 The question now arises on the adoption of the





1 amendments of the Committee on Style to committee recommenda-  
2 tion S&E-1 and S&E-2.

3 Are you ready for the question? The Clerk will  
4 ring the quorum bell.

5 The question arises on the adoption of the  
6 committee amendments, amendments of the Committee on Style  
7 to committee recommendation S&E-1 and S&E-2. A vote Aye is  
8 a vote in favor of the adoption of all the amendments. A  
9 vote No is a vote against.

10 For what purpose does Delegate Burdette arise?

11 DELEGATE BURDETTE: A parliamentary inquiry. Are  
12 we voting on the recommendations of the Committee on Style, or  
13 the recommendations of the Committee on Style as amended?

14 THE PRESIDENT: The recommendations of the  
15 Committee on Style as modified.

16 DELEGATE BURDETTE: Thank you, sir.

17 THE PRESIDENT: These will include the changes  
18 announced orally to which there was no objection.

19 A vote Aye is a vote in favor of the adoption of  
20 all the changes recommended by the committee, including the  
21 modifications announced today. A vote No is a vote against.



1           Cast your vote.

2           Has ~~every~~ delegate voted? Does any delegate  
3 desire to change - Delegate James Clark.

4           DELEGATE JAMES CLARK: Aye.

5           THE PRESIDENT: Delegate James Clark votes Aye.

6           Does any delegate desire to change his vote?

7           The Clerk will record the vote.

8           There being 120 votes in the affirmative and  
9 none in the negative, the amendments proposed by the  
10 Committee on Style to committee recommendations S&E-1 and  
11 S&E-2 are adopted.

12           The committee recommendation S&E-1 and S&E-2 as  
13 amended is now up for further amendment.

14           The Chair has no amendments sponsored by 15 or  
15 more delegates. Are there any? The Chair hears none.

16           Delegate Koss, do you desire to offer your  
17 amendment A?

18           DELEGATE KOSS: If that is the one with reference  
19 to section 2.01, yes. I have not seen it.

20           THE PRESIDENT: It is. The amendment is  
21 written, but I don't think it is back yet. Can you check for





1 me and find out the status of amendments A and B and D,  
2 please?

3 Is there any objection to considering the  
4 amendment notwithstanding the fact that it is not printed?  
5 It is being printed, and will be here very shortly.

6 The Chair hears no objection.

7 I will ask the reading clerk to read the  
8 amendment. This will be amendment No. 2.

9 MR. QUILLEN: Amendment No. 2 to committee  
10 recommendations S&E-1 and S&E-2 as amended by report No.  
11 S&D 11 by Dele, by Delegates Koss, Byrnes, Cardin, D. Murray,  
12 Federick, Rybczynski, Schloeder, Soul and White:

13 On page 1, section 2.01, Voters in Federal, State,  
14 and County Elections, in line 13 strike out the words "House  
15 of Delegates district and";

16 And in lines 21 and 22, 22 and 23 and line 25  
17 strike out respectively in each instance the following  
18 words: "delegate district or".

19 THE PRESIDENT: The amendment was a little  
20 difficult to follow as the reading clerk gave it. If you  
21 will follow me, I think I can explain it so that it will be



clear to you.

1           On page 1, in line 13, you would strike out the  
2 words "House of Delegates district and", so that the  
3 sentence would then read "every citizen of the United States  
4 who ~~has~~ attained the age of 19 years who has been a resident  
5 of this state for six months, and of the county in which he  
6 offers to vote for 3 months," eliminating the requirement of  
7 residence in the House of Delegates district.

8           Similarly, in lines 21, 22 and 23 and 25,  
9 strike out the words "delegate district or", so that the  
10 sentence beginning on line 21 would read "removal from one coun-  
11 ty to another county in this state shall not deprive  
12 a person of his qualification to vote in the county from which  
13 he last removed until three months after his removal."

14  
15           The amendment has been submitted by Delegation Koss,  
16 seconded by the co-sponsors. The Chair recognizes Delegate  
17 Koss.

18           DELEGATE KOSS: Mr. Chairman, in light of amendment  
19 1, I don't think it has a substantive bearing, but the  
20 title in the amendment as it is being printed should be  
21 corrected to "voters in national, state and county elections."



1           As S&E-2 came the floor originally, residence  
2 requirements were in terms of six months in the state, and  
3 three months in the House of Delegates district. An  
4 amendment was offered on the floor and accepted by the  
5 Committee of the Whole to include residence in the county.  
6 This, in effect, as amended by the Committee of the Whole  
7 sets three residence requirements, one of six months in the  
8 State, and one of three months in the county, and in the  
9 House of Delegates.

10           Since the county is expected to remain the  
11 administrative unit for the purposes of election, the  
12 committee, or at least part of it, met today and agreed  
13 that the second residence requirement should be in terms  
14 of county rather than including the three requirements  
15 as the recommendation now stands.

16           It seemed to us that retention of the House of  
17 Delegates district in addition to the county would impose  
18 an unnecessary obstacle to voting for some persons, and  
19 would impose a really complicated administrative procedure  
20 for the supervisors of elections and really make no  
21 great contribution to preserving the integrity of the





1 elections.

2 Now, the legislative article makes it clear that  
3 only those persons who live in a particular House of  
4 Delegates district can vote for that district delegate, and  
5 those persons living in a Senatorial district may indeed vote  
6 for the Senator. For all these reasons the committee would  
7 strongly urge that you adopt this amendment.

8 THE PRESIDENT: Are there any questions of the  
9 sponsor of the amendment?

10 The Chair hears none.

11 Is there any discussion? Are you ready for  
12 the question?

13 The question rises on the adoption of amendment  
14 No. 2. The Clerk will ring the quorum bell.

15 The question arises on the adoption of amendment  
16 No. 2. A vote Aye is a vote in favor of the amendment; a  
17 vote No a vote against.

18 Cast your vote.

19 Has every Delegate voted?

20 Delegate James Clark?

21 DELEGATE JAMES CLARK: I vote Aye.



1 THE PRESIDENT: Delegate James Clark votes Aye.

2 Does any delegate desire to change his vote?

3 The Clerk will record the vote.

4 There being 108 votes in the affirmative and  
5 6 in the negative, the motion is carried. The amendment  
6 is adopted.

7 Are there any other amendments with respect to  
8 Section 2.01? The Chair hears none.

9 Are there any amendments with respect to  
10 Section 2.02? The Chair hears none.

11 Are there any amendments with respect to Section  
12 2.03?

13 Delegate Macdonald, do you desire to offer  
14 your amendment that was marked D?

15 DELEGATE MACDONALD: I do, Mr. President.

16 THE PRESIDENT: The amendment is on the way,  
17 but not yet here. Is there any objection to considering  
18 the amendment which is just to change the word "shall"  
19 to "may", notwithstanding the fact that it is not printed?

20 The Chair hears none, and asks the reading clerk to  
21 read the amendment. This will be amendment No. 3.





1 MR. QUILLEN: Amendment No. 3 to committee  
2 recommendations Nos. S&E-1 and S&E-2 as amended, by report  
3 S&D-11, by Delegate Macdonald.

4 On page 2, section 2.03. Voters in Presidential  
5 Elections in line 20 strike out the word "shall" and insert  
6 in lieu thereof the word "may".

7 THE PRESIDENT: The amendment is submitted by  
8 Delegate Macdonald. Is there a second.

9 (The motion was duly seconded)

10 THE PRESIDENT: The amendment having been seconded  
11 the Chair recognizes Delegate Macdonald.

12 DELEGATE MACDONALD: Mr. President, fellow  
13 delegates, this amendment would change the word "shall"  
14 on line 20, page 2, to "may".

15 I think that we want to make this permissive and  
16 not mandatory. The committee's report -- I am talking now  
17 about the report of the Committee on Suffrage and Elections  
18 which accompanied its recommendation on first reading, state  
19 that the purpose of this section was to give the  
20 General Assembly the authority to provide a lesser  
21 residence requirement, and to carry out that purpose of course



1 we should make it permissive and use the word "may".

2 As it is now written, the General Assembly would be  
3 required to provide a lesser residence requirement, and I  
4 doubt whether we want to do that.

5 THE PRESIDENT: Delegate Koss.

6 DELEGATE KOSS: Mr. President, the committee  
7 report that accompanied S&E-2 includes the information  
8 that the General Assembly in 1965 did indeed pass a law  
9 permitting those people who did not meet the residence  
10 requirements in this state to vote for President and  
11 Vice President.

12 Insofar as the General Assembly had already  
13 exercised the authority that is granted here, and since  
14 the committee felt that it was very important that in this  
15 mobile society of ours, people who live within the United  
16 States should always be, if at all possible, permitted to  
17 vote for President and Vice President, we felt that it  
18 was very important that this language be mandatory and not  
19 permissive.

20 For that reason I must oppose the amendment.

21 THE PRESIDENT: Is there any further discussion?



1 Are you ready for the question?

2 The Clerk will ring the quorum bell.

3 The question arises on the adoption of amendment  
4 No. 3. A vote Aye is a vote in favor of the amendment.  
5 A vote No is a vote against.

6 For what purpose does Delegate Storm rise?

7 DELEGATE STORM: I want to ask a question of  
8 someone who will take the floor that may know the answer to  
9 it. I would specify Delegate Koss.

10 THE PRESIDENT: What is the question?

11 DELEGATE STORM: I wonder whether or not there  
12 will have to be two ballots -- one prepared for regular  
13 residents to vote for President, Vice President and Senator  
14 or Representative, and then another ballot for those with the  
15 shorter residence to be able to vote for President and  
16 Vice President.

17 THE PRESIDENT: Delegate Koss.

18 DELEGATE KOSS: Delegate Storm, first of all  
19 this section 2.03 is limited to voting for President and  
20 Vice President. It would not include Congressman or  
21 Senator.





1 Under the law and under the procedures now in  
2 existence, although not yet exercised, these voters are  
3 handled in a manner similar to absentee voters. They fill  
4 out a paper ballot which is filed with the Board of  
5 Elections Supervisors. They do not use a regular voting  
6 machine.

7 THE PRESIDENT: Delegate Storm.

8 DELEGATE STORM: In other words, the people who  
9 would be enfranchised here with a lesser residence require-  
10 ment would have a special paper ballot with just the  
11 President and Vice President on it?

12 DELEGATE KOSS: That is correct.

13 DELEGATE STORM: And this would be even though  
14 a representative were running at the same time?

15 THE PRESIDENT: Delegate Koss.

16 DELEGATE KOSS: That is absolutely correct.  
17 This extends the franchise only for the purpose of voting  
18 for President and Vice President of the United States,  
19 or electors for those offices.

20 THE PRESIDENT: Delegate Koss, so that the  
21 record may be clear, am I correct that while this is the



1 practice it is not ~~an absolute~~ requirement?

2 In other words, a voting machine can be so set that  
3 by action externally by the election judge, a voter entering  
4 the booth could be restricted in the offices for which he  
5 was voting?

6 DELEGATE KOSS: Mr. President, voting machines are  
7 capable of that kind of control, so that in effect the  
8 machine could be set so that they could vote only for  
9 President and Vice President, or the electors therefor.

10 THE PRESIDENT: Is there any further discussion?  
11 Are you ready for the question?

12 The question arises on the adoption of amendment  
13 No. 3. A vote Aye is a vote in favor of the amendment, which  
14 is to change the word "shall" in line 20 on page 2 to the  
15 word "may". A vote in favor of the change is Aye. A vote  
16 No is a vote against the amendment.

17 Cast your votes.

18 Has every delegate voted?

19 Delegate James Clark.

20 DELEGATE JAMES CLARK: I vote Aye.

21 THE PRESIDENT: Delegate James Clark votes Aye.





1 Does any delegate desire to change his vote?

2 The Clerk will record the vote.

3 There being 51 votes in the affirmative and 57  
4 in the negative, the motion is lost. The amendment is  
5 rejected.

6 The Chair incorrectly announced the total on  
7 the last amendment. It was affirmative, 52; negative, 57.

8 Pages will please distribute the amendment C. This  
9 is the amendment on which you have already acted, amendment  
10 No. 1, which was adopted.

11 Pages will also distribute amendment A, which  
12 you have already acted on, as amendment No. 2, which has  
13 been adopted.

14 Are there any further amendments to section 2.03?  
15 The Chair hears none.

16 Are there any amendments to section 2.04?

17 Delegate Byrnes.

18 DELEGATE BYRNES: Mr. President, may I direct a  
19 question to Chairman Koss?

20 THE PRESIDENT: Delegate Koss, would you take  
21 the floor to answer a question?



1 DELEGATE KOSS: Yes.

2 THE PRESIDENT: Delegate Byrnes.

3 DELEGATE BYRNES: Delegate Koss, on first  
4 reading before the Committee of the Whole, I attempted to ask  
5 as to each one of these sections whether or not they applied  
6 to certain levels of elections, and I am not sure that I  
7 succeeded in covering them all.

8 I wouldlike to pick up at this point, and ask you  
9 whether or not 2.04 applies to national, state, county and  
10 municipal elections.

11 THE PRESIDENT: Delegate Koss.

12 DELEGATE KOSS: Delegate Byrnes, section 2.04  
13 does apply to national, state, county and municipal  
14 elections.

15 THE PRESIDENT: Are there any further amendments  
16 to section 2.04?

17 Delegate Storm.

18 DELEGATE STORM: Mr. President, I have an  
19 inquiry, parliamentary and otherwise.

20 THE PRESIDENT: State the inquiry.

21 DELEGATE STORM: I would like to make it of you.



1           With your memory, I am sure you will recall on  
2 Pearl Harbor Day I tried to get the Convention or the  
3 Committee of the Whole to change the word "exercises" in  
4 line 30 to "has been ceded". I didn't make it very clear  
5 that the result of this would be to extend and liberalize the  
6 provision.

7           Now, I don't know whether in the discussion of GP-5  
8 I made it clear that the United States has a lot of juris-  
9 diction that it doesn't exercise, and that it doesn't  
10 exercise jurisdiction over most of these federal enclaves.

11           Do you think it now is clear enough that I could  
12 suggest this amendment again?

13           THE PRESIDENT: I think you did make the point very  
14 clearly in the discussion, and since this is second reading  
15 and is the last opportunity to present the matter, let me  
16 direct the attention of the committee chairman to this,  
17 please.

18           Delegate Koss, when this section 2.04 was under  
19 consideration in the Committee of the Whole, Delegate Storm  
20 prepared a memorandum and also indicated orally that there  
21 are many areas as to which exclusive jurisdiction has been





1 ceded to the United States, but over which it does not in  
2 fact exercise the jurisdiction which has been ceded to it.

3 He raised the question as to whether the word  
4 "exercises" should be changed, because the effect of it  
5 would be to enfranchise people on federal enclaves as to  
6 which the United States exercised jurisdiction, but would not  
7 enfranchise residents on federal enclaves over which the  
8 United States had jurisdiction but did not exercise it.

9 Was this your point, Delegate Storm?

10 DELEGATE STORM: Mr. President, I wish I had  
11 gotten you to write my memorandum. That is the point  
12 exactly.

13 THE PRESIDENT: What he suggests is that in line  
14 30 on page 2 it might be desirable to change the word  
15 "exercises", strike out the word "exercises" and insert the  
16 words "has been ceded", so that all persons on federal  
17 enclaves over which the United States has jurisdiction  
18 and who thereby are deemed nonresidents of Maryland, would  
19 be enfranchised, whether or not the United States exercises  
20 the jurisdiction.

21 Delegate Koss.



1           DELEGATE KOSS:    Delegate Storm, first of all  
2 there was certainly no intent to limit the effect of  
3 section 2.04 only to those enclaves in which the United  
4 States indeed exercises jurisdiction.

5           May I ask you a question?  If instead of the  
6 words "has ceded jurisdiction" would you accept the words  
7 "over which the United States has jurisdiction"?

8           THE PRESIDENT:  Delegate Storm.

9           DELEGATE STORM: No, because they have jurisdiction  
10 over the whole country for some purposes.  I really was aiming  
11 this at those enclaves where there had been actually ceded  
12 jurisdiction by the state legislature.

13          THE PRESIDENT:  Delegate Koss, I think, if the  
14 Chair may be allowed to express an opinion, that the point  
15 is well taken.  The United States has jurisdiction over all  
16 property in the State of Maryland, but you are talking here  
17 only about jurisdiction ceded, exclusive jurisdiction,  
18 in other words.

19          DELEGATE KOSS:  Mr. President, we were not  
20 talking -- I don't think we were limiting this to exclusive  
21 jurisdiction.





1           THE PRESIDENT: I was using the word perhaps in-  
2 accurately. What he is trying to point out is that a federal  
3 enclave, residents of which have been disenfranchised, are  
4 federal enclaves over which the United States has been ceded  
5 jurisdiction, whether or not it exercises that jurisdiction  
6 which it has been ceded.

7           DELEGATE KOSS: My question becomes a legal one,  
8 because even though the United States has been ceded  
9 jurisdiction, it doesn't choose to exercise it in some  
10 cases - in some instances - and the state still has  
11 jurisdiction.

12           This is my problem in accepting the language  
13 that Delegate Storm wants to offer.

14           THE PRESIDENT: I don't know whether I ought to  
15 answer the inquiry. It seems to me what you are doing here  
16 is merely defining the kind of enclave you mean, and  
17 obviously the kind of enclave you mean is one over which  
18 the United States has been ceded jurisdiction.

19           Perhaps the quickest way to get at it would be  
20 to submit it in the form of an amendment -- it would have  
21 to be by amendment, anyhow.



1 Delegate Storm, do you want to make the amendment?

2 DELEGATE STORM: If I could, with unanimous  
3 consent, strike out the word "exercise" and insert the  
4 words "has been ceded". This is on line 30.

5 THE PRESIDENT: Is there any objection to consider-  
6 ing an amendment proposed by Delegate Storm notwithstanding  
7 the fact that it has not been printed?

8 The amendment would strike the word "exercise"  
9 in line 30 on page 2, and insert in lieu thereof the  
10 words "has been ceded".

11 The Chair hears no objection.

12 The amendment has been submitted by Delegate  
13 Storm. Is there a second?

14 (The amendment was duly seconded)

15 THE PRESIDENT: The Chair recognizes Delegate  
16 Storm. This will be amendment No. 4.

17 Delegate Storm.

18 DELEGATE STORM: Mr. President, you explained  
19 this so well, anything I might say might mess it up. Thank  
20 you.

21 THE PRESIDENT: Delegate Koss.



1           DELEGATE KOSS: Mr. President, I am reluctant  
2 to speak for the committee on this, and I would suggest  
3 that if any member of the committee has any real objection  
4 to this that he take the floor.

5           THE PRESIDENT: Does any member of the Committee  
6 on Suffrage and Election desire to comment on the proposed  
7 amendment?

8           Apparently there are none.

9           Is there any other discussion? Are you ready  
10 for the question? The Clerk will ring the quorum bell.

11           The question arises on the adoption of amendment  
12 No. 4 which will delete from line 30 on page 2 the word  
13 "exercises" and substitute the words "has been ceded." A  
14 vote Aye is a vote in favor of the amendment. A vote No  
15 is a vote against.

16           Cast your votes.

17           Has every delegate voted?

18           Delegate James Clark.

19           DELEGATE JAMES CLARK: I vote Aye.

20           THE PRESIDENT: Delegate James Clark votes Aye.

21           Does any delegate desire to change his vote?





1           The Clerk will record the vote.

2           (Applause)

3           THE PRESIDENT: So that the Record will be clear  
4 on the tape for posterity, the Chair should announce that the  
5 applause it assumes is because Delegate Storm has taken the  
6 Convention by storm (laughter).

7           There being 99 votes in the affirmative and three  
8 in the negative, the motion is carried. The amendment is  
9 adopted.

10          Pages will please distribute the amendment D.  
11 "D" for David.

12          This is the amendment No. 3 on which you have  
13 already acted. Amendment 3 is amendment D.

14          Delegate Key.

15          DELEGATE KEY: Mr. President, I have a question I  
16 would like to ask the committee chairman, please.

17          THE PRESIDENT: Delegate Koss, will you take the  
18 floor to yield to a question?

19          DELEGATE KOSS: Yes, sir.

20          DELEGATE KEY: I am looking at the amendment that  
21 was just passed striking out "House of Delegate District", and



1 so forth. I am wondering, is there now left in the  
2 requirement residency in the delegate district in order to  
3 vote?

4 THE PRESIDENT: This is with reference to amendment  
5 2 to section 2.01.

6 DELEGATE KOSS: Delegate Key, in the legislative  
7 article where it establishes qualifications for members  
8 of the House of Delegates or members of the Senate, and the  
9 manner in which they are elected, that specifies that they  
10 are to be elected by the voters living in that House of  
11 Delegates district, or in the Senatorial district, so the  
12 residency requirement for the purposes of voting for  
13 members of the General Assembly is established in the  
14 legislative article.

15 THE PRESIDENT: I am not sure the Chair understands  
16 that answer, Delegate Koss. If I caught the last sentence,  
17 did you say the residence requirement for voters is  
18 established in the legislative article? I think you meant the  
19 residency requirement for candidates.

20 DELEGATE KOSS: No.

21 THE PRESIDENT: I'm sorry.





1 DELEGATE KOSS: If you will bear with me a minute,  
2 until I can find that language, I would like to read it.

3 Mr. President, the language that I was referring  
4 to is in section 3.06:

5 "A member of the General Assembly shall be  
6 elected by the qualified voters of the legislative district  
7 from which he seeks election."

8 THE PRESIDENT: I understand.

9 Does that answer your question, Delegate Key?

10 DELEGATE KEY: It does, but I guess I am still a  
11 little confused. If it is our intention that the voters  
12 for the candidate have a residence requirement, is it  
13 not erased -- for example, if you say that they do not  
14 have to reside in this district for three months, is it not  
15 possible that by removing this wording from the section  
16 that you could remain a voter in a delegate district of  
17 your choice, regardless of how long you move to another  
18 district?

19 THE PRESIDENT: Do you understand the inquiry,  
20 Delegate Koss?

21 DELEGATE KOSS: No.



1           THE PRESIDENT: What I think Delegate Key is  
2 saying to you is in ~~section~~ 2.01 you have now removed  
3 the requirement that voters reside in any particular  
4 delegate district. Do you now have an inconsistency between  
5 this section which says that a person resident in a county  
6 is eligible to vote and the section in Article 3 which says  
7 that a member of the General Assembly or the House of  
8 Delegates shall be elected by the voters in the district?

9           DELEGATE KOSS: Mr. President, I don't see that as  
10 an inconsistency. We are establishing the requirements to be  
11 eligible to vote, not establishing the officers for whom you  
12 vote.

13           This was a distinction I tried to make previously  
14 and was obviously unsuccessful.



1 THE PRESIDENT: Delegate Key.

2 DELEGATE KEY: It seems to me you are establishing  
3 qualifications for voting on a countywide basis, and you  
4 have made no provision for district qualifications.

5 THE PRESIDENT: Delegate Key, I think the  
6 explanation made at the time the matter was considered by  
7 the Committee of the Whole was that in voting for a county-  
8 wide office, county residence was all that was required in  
9 voting for an office for which voting is by legislative  
10 districts. If the section requires that the candidate be  
11 elected by the voters of the district, residence in that  
12 district is required.

13 I think Delegate Koss' point is that there is no  
14 in consistency in that section 2.01 does not require what  
15 is required by section 3.06. In other words, you have  
16 an added requirement in 3.06 to what is in 2.01, but it is  
17 not an inconsistent requirement.

18 Is that the position, Delegate Koss?

19 DELEGATE KOSS: Yes.

20 THE PRESIDENT: Delegate Bamberger.

21 DELEGATE BAMBERGER: Mr. President, may I





1 suggest that what 2.01 speaks about is really the  
2 definition of who is a qualified voter, and then section  
3 3.06 picks that up. Section 2.01 doesn't say or does not  
4 enumerate or limit the candidates for whom those people  
5 may vote. It says these are qualified voters. Then  
6 section 3.06 says that those qualified voters who reside  
7 in that legislative district are eligible to vote for those  
8 members of the General Assembly.

9 THE PRESIDENT: Does that answer your inquiry,  
10 Delegate Key?

11 DELEGATE KEY: The only problem I still have  
12 is that there is still not set down a qualification for  
13 voters of the district, is there?

14 THE PRESIDENT: There is, but it is in another  
15 section.

16 Delegate Key.

17 DELEGATE KEY: It says "residence", right? You  
18 have to be a resident of the district but it doesn't say  
19 how long in the other section.

20 THE PRESIDENT: Delegate Koss, did you want to  
21 comment further?



1           DELEGATE KOSS: I think Delegate Bamberger  
2 was quite helpful in trying to make the distinction.

3           For instance, no place in here do we say where  
4 you have to live in order to vote for your congressman,  
5 but you know full well that you can vote for a congressman  
6 only if you live within his district. It is the same  
7 for state senate or as provided in the legislative article,  
8 in LB-1. There is a distinction between who is eligible  
9 to vote on the one hand, what qualifications you need, and  
10 secondly the category, for whom you vote or for whom you  
11 may vote.

12           THE PRESIDENT: Delegate Koss, would it be  
13 proper to answer Delegate Key further by saying that under  
14 the two sections read together it would be possible for a  
15 voter who was qualified to vote because of three months  
16 residence in the county to vote in the particular legis-  
17 lative district even though he may have lived in that  
18 district only one day?

19           DELEGATE KOSS: Under the present laws, that  
20 would not be possible --

21           THE PRESIDENT: No, I am talking about under this





1 proposal, section 2.01 and 3.06.

2 DELEGATE KOSS: Well, this goes, I think, Mr.  
3 President, to the kind of statutory enactments that the  
4 General Assembly sets up to insure the integrity of the  
5 elections in terms of how soon before an election you could  
6 change your address.

7 THE PRESIDENT: In other words, the General  
8 Assembly may say one day is not enough, but what you are  
9 saying is, to Delegate Key, that a voter who is qualified  
10 because of three months' residence in a county need not  
11 necessarily have three months' residence in the particular  
12 delegate district in which he votes. Is that correct?

13 DELEGATE KOSS: That is correct.

14 THE PRESIDENT: Does that answer your inquiry,  
15 Delegate Key?

16 DELEGATE KEY: Yes.

17 THE PRESIDENT: Are there any amendments to  
18 section 2.05? Delegate Fox.

19 DELEGATE FOX: I wonder if Delegate Koss would  
20 answer a question with regard to section 2.05, please.

21 THE PRESIDENT: Delegate Koss, will you take



1 the floow to yield to a question?

2 DELEGATE KOSS: Yes, sir.

3 THE PRESIDENT: Delegate Fox.

4 DELEGATE FOX: In regard to the requirement in  
5 the last two lines of that section, "may be required by law  
6 to furnish an appropriate bond" -- the thought occurs to me  
7 in view of recent happenings in Mississippi, I believe it is  
8 Mississippi, whether or not that is really a proper  
9 requirement or whether or not that is a property requirement  
10 that ought not to be in the constitution.

11 It seems to me it makes the situation that a  
12 private bonding company then has the right to determine  
13 whether or not someone who is elected to office can in  
14 fact take office after the voters have elected him to  
15 office; if he is required to file a bond and a private  
16 bonding company decides they don't want to post a bond for  
17 him, he might thereby be denied the office that he was  
18 seeking.

19 I wondered if any thought had been given to  
20 that in view of the situation that has occurred here in  
21 the last few weeks or so.



1 THE PRESIDENT: Delegate Koss.

2 DELEGATE KOSS: Delegate Fox, of course this  
3 decision was made quite a good deal prior to last week, and  
4 I am not familiar with the case to which you were referring,  
5 nor was that whole question of the constitutionality of  
6 this ever gone into. We were not aware that there might  
7 be any serious flaw in it on that basis.

8 THE PRESIDENT: Are there any other amendments  
9 to section 2.05? Delegate Byrnes.

10 DELEGATE BYRNES: I would like to address a  
11 question to Delegate Koss.

12 THE PRESIDENT: Delegate Koss, will you take the  
13 floor to yield to a question?

14 DELEGATE KOSS: Yes, sir.

15 THE PRESIDENT: Delegate Byrnes.

16 DELEGATE BYRNES: In section 2.05, lines 35  
17 through 39, that applies to federal, state, county and  
18 municipal elections. Am I correct?

19 THE PRESIDENT: Delegate Koss.

20 DELEGATE KOSS: Would you please give me the  
21 reference again? What page are you on?





1 THE PRESIDENT: Delegate Byrnes.

2 DELEGATE BYRNES: Page 2, section 2.05, lines  
3 35 through 39, applies to federal, state, county, municipal  
4 elections.

5 DELEGATE KOSS: Yes, that is correct.

6 THE PRESIDENT: Delegate Byrnes, I am not  
7 sure the Chair understands your question or the answer.  
8 I am assuming your question and answer were directed only  
9 to the first part of the sentence and not to the last part  
10 ending in line 39.

11 DELEGATE BYRNES: Yes, sir, because the second  
12 part clarifies it by referring to any unit of local govern-  
13 ment, of the state, or of any unit of local government, so  
14 my question was answered by the language as to that  
15 second portion.

16 THE PRESIDENT: Well, I am lost again -- the  
17 second portion of what?

18 DELEGATE BYRNES: The second portion of  
19 Section 2.05, which includes line 39 through 45 beginning  
20 with the word "ownership".

21 THE PRESIDENT: Could you go back to your



1 original question which was directed, as I understood it,  
2 to the sentence beginning in lines 35 to 39, is that  
3 correct?

4 DELEGATE BYRNES: Yes, sir. In Section 2.05,  
5 lines 35 through 39, we speak of the requirement of an  
6 ownership of interest in property as a prerequisite for  
7 voting, and there is a bar to that requirement. I asked  
8 Delegate Koss --

9 THE PRESIDENT: There is a bar to that require-  
10 ment except in municipal elections.

11 DELEGATE BYRNES: Except in municipal elections  
12 -- I am sorry, I see my mistake.

13 THE PRESIDENT: In other words, your question  
14 and the answer is directed to lines 35 and 36 and not  
15 lines 38 and 39.

16 DELEGATE BYRNES: That is true, sir.

17 THE PRESIDENT: Very well.

18 Are there any other amendments to Section 2.05?

19 Are there any amendments to Section 2.06?

20 Delegate Hardwicke.

21 DELEGATE HARDWICKE: Mr. President, I have a





1 question with regard to 2.05.

2 THE PRESIDENT: Of Delegate Koss?

3 DELEGATE HARDWICKE: Of Delegate Koss, yes.

4 THE PRESIDENT: Delegate Koss, will you take  
5 the floor to yield to a question?

6 DELEGATE KOSS: Yes.

7 THE PRESIDENT: Delegate Hardwicke.

8 DELEGATE HARDWICKE: Delegate Koss, the second  
9 sentence of Section 2.05, "Ownership of an interest in  
10 property shall not be required as a condition for holding  
11 any elective or appointive office of this state."

12 Comparing this language with the language of  
13 the preceding sentence, do you mean by this second sentence  
14 all public offices, both state offices as well as municipal  
15 units of the municipal governments?

16 THE PRESIDENT: Delegate Koss.

17 DELEGATE KOSS: With reference to the second  
18 sentence, yes.

19 THE PRESIDENT: Delegate Hardwicke.

20 DELEGATE HARDWICKE: So it is your intention  
21 that in the second sentence in any elective or appointive



1 office there shall not be any such requirement?

2 THE PRESIDENT: Delegate Koss.

3 DELEGATE KOSS: That is correct.

4 THE PRESIDENT: Delegate White.

5 DELEGATE WHITE: Mr. President and members of  
6 the Convention, I am very happy that Delegate Fox brought  
7 up the matter of what happened in my home state of  
8 Mississippi to your attention in the area of bonds. I feel  
9 that I would be derelict in my obligation to this Convention  
10 if I did not request unanimous consent of this committee  
11 to deal with this beginning on line 43, the first word,  
12 "except", and to delete that entire section in view of  
13 what did happen since our committee -- and I am a member  
14 of this committee -- included this language.

15 THE PRESIDENT: Delegate White, if you desire,  
16 that can be submitted as an amendment. I don't think you  
17 can make the change in any other way. Do you desire to  
18 submit such an amendment?

19 DELEGATE WHITE: I would, yes, sir.

20 THE PRESIDENT: Is there any objection to  
21 considering, notwithstanding the fact it is not yet printed,



1 an amendment which would delete all of lines 43, 44 and 45  
2 on page 2?

3 Delegate Fox.

4 DELEGATE FOX: Mr. Chairman, I would like to  
5 make an amendment that would delete the whole section.  
6 That might make Delegate White even happier.

7 I don't see anything in there that we can't  
8 do without. Section 2.02 allows municipal corporations  
9 to establish by law qualifications of voters in municipal  
10 elections.

11 THE PRESIDENT: Well, I think probably  
12 Delegate White would be entitled to put his amendment  
13 first, if he desired to.

14 Delegate White, would you be willing to have  
15 submitted the amendment proposed by Delegate Fox to delete  
16 the entire section before submitting your amendment, or  
17 would you prefer to have your amendment submitted first?

18 DELEGATE WHITE: I wish to thank Delegate Fox,  
19 but I would prefer deleting the words, the language to which  
20 I referred.

21 THE PRESIDENT: Very well. Delegate Fox, you may





1 offer your amendment later.

2 Delegate Bamberger.

3 DELEGATE BAMBERGER: Mr. Chairman, I am not  
4 sure that Delegate White understood the proposal of  
5 Delegate Fox. What Delegate Fox proposes, Delegate White,  
6 is an amendment to delete the entire Section 2.05.

7 THE PRESIDENT: Delegate White.

8 DELEGATE WHITE: I was concerned with the line  
9 dealing with the requirement. I don't want property to  
10 be a requirement to vote, so I wouldn't want that deleted.

11 THE PRESIDENT: Well, let me state again  
12 what I asked you before. Do you want your amendment to  
13 delete lines 43, 44 and 45 submitted first, or would you  
14 be willing to have Delegate Fox's amendment to delete  
15 the entire section submitted first?

16 DELEGATE WHITE: I will stay with my amendment.

17 THE PRESIDENT: Very well.

18 Delegate Fox, the Chair will recognize you for  
19 the other amendment afterwards.

20 If there is no objection to considering the  
21 amendment proposed by Delegate White --- Delegate Fox?



1 DELEGATE FOX: Mr. Chairman, I would just like to  
2 make the amendment that we delete Section 2.05. I don't  
3 believe that there is anything in the section that is  
4 necessary.

5 THE PRESIDENT: But I can't recognize you at  
6 this moment. I will recognize you after we have acted on  
7 Delegate White's amendment.

8 This will be Amendment No. 5, delete lines 43,  
9 44 and 45 on page 2. The amendment is submitted by  
10 Delegate White.

11 Is there a second?

12 (Whereupon, the motion was duly seconded.)

13 THE PRESIDENT: The amendment is seconded by  
14 Delegate Schloeder.

15 The Chair recognizes Delegate White.

16 DELEGATE WHITE: Mr. President, members of  
17 this Convention, I have not found it necessary to remind  
18 you that I am from the Magnolia State since approximately  
19 September 12. Many of you have fought a very fine fight  
20 in the area of my concern to the extent that I stood by and  
21 voted with those of you who thought on the progressive side.





1 and I am happy with the number of you that fit into that  
2 mold as far as I personally am concerned.

3 A hundred years ago in my state of Mississippi  
4 was the last time that a Negro was elected to an elective  
5 post in that fair state until a few weeks ago. A few  
6 weeks ago following legislative action on the part of  
7 Congress and the interest of the President of the United  
8 States, several Negroes were elected to comparatively  
9 nominal posts such as justice of the peace or elections  
10 officials.

11 Mr. President and members of this Convention,  
12 since these liberals have been successful at the polls  
13 the big bankers up North made it practically impossible  
14 for them to take office because they could not secure  
15 bonds. On one mere job that paid practically nothing  
16 they were requiring a man to pay \$170,000 in order that he  
17 could take his office on December 31.

18 Mr. President, they even came to the fair city  
19 of Baltimore to a couple of our largest banks in an effort  
20 to secure bonds, and at the present time some of them,  
21 by going all the way to New York City and all up north in an



1 effort to find a liberal lender, have been embarrassed, so  
2 we find ourselves in the position in Mississippi of being  
3 confronted by bankers in Maryland saying, "We will make it  
4 difficult for you to take office because if you win we  
5 shall make it impossible for you to take your seat because  
6 of the color of your skin."

7 I hate to keep bringing this before you, but I  
8 ask in this spirit to let us delete this from our  
9 constitution and let us leave it up to our legislature  
10 to find a means of establishing bail where it is necessary  
11 to cover and protect our own state interest, financially  
12 and otherwise.

13 We have made plans for doing this in our budget  
14 by some method that will not leave people dependent on the  
15 whims of lending institutions.

16 I hope that this proposed deletion will receive  
17 your support. Thank you.

18 THE PRESIDENT: Delegate Koss.

19 DELEGATE KOSS: Mr. Chairman, I would like,  
20 if I might, to address a question to Delegate White.

21 I wonder, if that language is deleted from this



1 section, whether the General Assembly would still have  
2 the authority to require bonds in view of the language  
3 which is left in the first line, "Ownership of an interest  
4 in property shall not be required as a condition for  
5 holding an elective or appointive office."

6 THE PRESIDENT: Delegate White.

7 DELEGATE WHITE: This had not particularly come  
8 to my attention. It is possible that we could frame some  
9 language or could attempt to give some direction to the  
10 State Legislature so that they would be made aware of  
11 what has happened and what could happen at a future date,  
12 and of course I would be willing to accept such language,  
13 but in the absence of that language I would hope that the  
14 committee would not resist striking this out.

15 Here we are making it inflexible that  
16 they must secure bonds. If they can't do that, they would  
17 have a problem.

18 THE PRESIDENT: Delegate Koss.

19 DELEGATE KOSS: Mr. President, I am afraid I have  
20 to oppose this.

21 First of all, the language in Section 2.05 says





1 that a person may be required by law to furnish an appro-  
2 priate bond". It is not in any way mandatory, it is  
3 still up to the General Assembly or the local governing  
4 body.

5 In addition, it would seem to me that some of the  
6 provisions of the Personal Rights Article that we have  
7 agreed to on first reading make very explicit our intent  
8 that people not be discriminated against, and it would seem  
9 to me, as a lay person, that we have tried to include in  
10 here safeguards so that bonds would not in effect be used  
11 to prevent people from taking elective or appointive office.

12 For these reasons, I feel it incumbent that we  
13 retain this.

14 THE PRESIDENT: Delegate Bennett.

15 DELEGATE BENNETT: Could I direct an inquiry  
16 to Delegate Koss?

17 What kind of bond do you have in mind? What  
18 sort of bond would anybody require -- a performance bond,  
19 is that what you have in mind?

20 THE PRESIDENT: Delegate Koss?

21 DELEGATE KOSS: I yield --



1 THE PRESIDENT: Delegate Rybczynski, can you  
2 answer the inquiry?

3 DELEGATE RYBCZYNSKI: Partially.

4 There are many officials who handle large sums  
5 of money. For instance, the Registrar of Wills of  
6 Baltimore City, who is an elective official, handles  
7 millions of dollars of taxes every year. He is just one  
8 example, and there are many, many others around the state.  
9 Clerks of courts handle many millions of dollars every  
10 year. All these sorts of people, sheriffs, many court  
11 house employees in particular.

12 THE PRESIDENT: Delegate Bennett.

13 DELEGATE BENNETT: I have been bonded myself  
14 on many occasions, but the kind of bond you speak of to  
15 secure honesty is one thing, and the kind of bond Mr.  
16 White has in mind -- namely, a faithful performance bond  
17 is what he has in mind in which the New York bankers are  
18 involved -- is an entirely different kind of bond. I can  
19 think of no reason why in this day and age we should  
20 require anybody to put up money for his faithful performance  
21 bonds in order to hold office, and I therefore think that  
unless this could be amended and limited entirely to a





1 bond to secure the honesty or to secure the funds that  
2 one must administer, I should think it ought to go out.

3 THE PRESIDENT: Delegate Rybczynski, would it be  
4 fair to say, in the light of your previous explanation,  
5 that the committee intends the words "appropriate bond" to  
6 mean a fidelity bond?

7 DELEGATE RYBCZYNSKI: No, it goes even further  
8 than that. There are some officials, such as a sheriff,  
9 who is subject to performing his duties accurately. For  
10 instance, if he is given an attachment and fails to attach  
11 properly or on time he is subject to suit, and you wouldn't  
12 want to put a person in a position such as that where he  
13 could do millions of dollars worth of damage a year and  
14 have nothing to back him up.

15 THE PRESIDENT: You are quite right.

16 Delegate Koger.

17 DELEGATE KOGER: Ladies and gentlemen, I am  
18 very sorry, but I don't exactly agree with Delegate White,  
19 and I want to give you just a little background on it.  
20 Most public officials carry bonds in all the states.  
21 I carry a bond as an insurance broker, and I am sure Mr.



1 Murray has to carry a bond, Churchill Murray. It is a  
2 customary thing that you carry a bond. It is to give the  
3 state assurance of your faithful performance of the job  
4 that you have to do. The governor has to carry it, the  
5 judges have to carry it in some way or other.

6 I think it was a most unfortunate thing that  
7 happened down South, and I am very much opposed to it --  
8 you know I am. Nevertheless, in the state of Maryland  
9 we are not necessarily guilty of that particular thing.  
10 We write bonds for public officials and have never to my  
11 knowledge had any public official, any person who has had  
12 to carry a public official bond since the days of Everett  
13 Lane, who was appointed judge -- and I wrote the bond  
14 for him, I wrote the bond for John Barry -- we have had no  
15 difficulty in posting bonds in the state of Maryland.

16 In addition to that, I sincerely believe that  
17 the carrying of a bond is a necessary thing. Quite  
18 recently we had some severe insurance scandals in Maryland.  
19 If it had not been for the bond that the people carried, many  
20 of the people would not have been able to receive any  
21 financial benefits. I think it is a very necessary thing,



1 and I certainly would oppose Mr. White's amendment.

2 THE PRESIDENT: Delegate Gill.

3 DELEGATE GILL: Mr. President and fellow  
4 delegates, I wish to support Delegate White in his amendment.  
5 As Maryland is supposed to be the United States in miniature,  
6 that includes a part of Maryland being a part of the South.  
7 Even though in Baltimore City and in many places in Maryland  
8 I don't think a person would have trouble securing a bond  
9 because of race, color or national origin, there are some  
10 places in Maryland where it might happen, and in this day and  
11 age I don't think it is necessary to have it in our  
12 constitution that a bond is necessary. The Legislature  
13 will take care of that as it has done in the past.

14 I am familiar with the incidents that happened  
15 in Mississippi. From the paper, I notice that Maryland  
16 Casualty, and I think one other company in Maryland, had  
17 the courage to underwrite these people who were trying to  
18 be installed after being elected by the people, and I  
19 think in every case the people who were prevented from  
20 being installed after being elected were simply for the  
21 job of supervisor, nothing great and big and grand and





1 glorious, but just ordinary elected jobs, and the reason  
2 they gave for not installing them they said wasn't racism,  
3 they weren't prejudiced, it was just good business. You  
4 can always say that. No matter what it is you can always  
5 say it isn't racism, you can always say it is just good  
6 business, that we would do it for anybody else, but the  
7 fact remains it was still those 20 Negroes in Mississippi  
8 who were having trouble getting the bond and the fact still  
9 remains that Maryland is an America in miniature, and  
10 I don't think we need this in the constitution. The  
11 Legislature will take care of this matter.

12 THE PRESIDENT: Delegate Sherbow.

13 DELEGATE SHERBOW: I support Delegate White's  
14 amendment, and I just want to reiterate what Delegate  
15 Gill said -- this doesn't have to be in the constitution.  
16 It has no place in it. All it says is that except that  
17 any person holding office may be required by law to furnish  
18 the bond.

19 The Legislature can do this, the Legislature  
20 can devise a set of details affecting one office, the  
21 local subdivisions may apply it effective for their local



1 subdivisions.

2 If Delegate Scanlan were here I would say this  
3 is exactly down your alley, and there are as many good  
4 reasons cited by Delegates White and Gill, but one by me,  
5 just as powerful, is it doesn't belong in the constitution.

6 THE PRESIDENT: Delegate Gullett.

7 DELEGATE GULLETT: Mr. President, I think  
8 Judge Sherbow answered this question, but I would like a  
9 little clarification on this, and perhaps Judge Sherbow  
10 could answer this, to clarify this.

11 If we strike this section, would it then mean that  
12 you could still bond appointed officials?

13 THE PRESIDENT: Delegate Sherbow.

14 DELEGATE SHERBOW: It would simply mean that  
15 the Legislature said or the local subdivision said before  
16 the mayor could hold office he would have to furnish a  
17 fidelity bond, or if he were a treasurer, he would have to  
18 post not only a fidelity bond but one that would guarantee  
19 more than that faithful performance, which means the return of  
20 all money he receives.

21 All of these are details. This doesn't belong





1 in the constitution. This is something you do by statute  
2 and by ordinance.

3 THE PRESIDENT: Delegate Gullett.

4 DELEGATE GULLETT: I support Delegate White's  
5 amendment, then.

6 THE PRESIDENT: Delegate Koss.

7 DELEGATE KOSS: Mr. President, the only reason  
8 that that second sentence was in there, and we are per-  
9 fectly willing to be proved wrong, was that the  
10 committee felt that the initial language, "Ownership of  
11 an interest in property shall not be required as a condition  
12 for holding any elective or appointive office of this  
13 state or of any unit of local government", might be  
14 interpreted to prohibit the requirement of bond.

15 If we can be assured that that was a misinter-  
16 pretation, then we would have no objection.

17 THE PRESIDENT: I don't believe anybody can  
18 give you that assurance, Delegate Koss.

19 DELEGATE KOSS: Well, Delegate Sherbow seemed  
20 to make that implication.

21 THE PRESIDENT: Delegate Della.



1           DELEGATE DELLA:   Mr. President, I would like  
2 to speak against the amendment.   I am certainly not against  
3 any minority group or anything like that.

4           Just about a year ago, the clerk in one of the  
5 counties in Southern Maryland was short some \$250,000, and  
6 only because of his bond I think they recovered \$100,000.

7           In our old constitution, it is spelled out  
8 that the sheriff, the clerks, and everyone else shall give  
9 bond before he takes office.

10          Now, when you are permitting a person to accept  
11 state money, no matter in what level of government, then I  
12 think he ought to be responsible to that particular sub-  
13 division by having a fidelity bond accounting for the money  
14 that he has taken in.

15          It hasn't been too many years ago when I was  
16 an auditor for one of the bonding companies, and through  
17 that bonding company we paid out over a million and a half  
18 dollars due to the malfeasance of clerks of courts, not  
19 only in the state of Maryland but in Virginia and New York.

20          Mr. President, if this is deleted because it says  
21 it may be required by law to furnish an appropriate bond only



1 to cover that job that he is seeking, I think it is a very  
2 reasonable requirement to have in the constitution.

3 THE PRESIDENT: Delegate Grumbacher.

4 DELEGATE GRUMBACHER: Mr. President, I rise  
5 to support Delegate White's position.

6 Maryland, of course, is not Mississippi, thank  
7 God, but the major reason I can see for striking this is  
8 that this allows persons other than the voters to decide  
9 what are the qualifications for holding office, and I  
10 therefore strongly support Delegate White's motion to strike  
11 these three lines.

12 THE PRESIDENT: Is there any other discussion?  
13 Delegate Bamberger?

14 DELEGATE BAMBERGER: Mr. Chairman, I rise to  
15 support the amendment. Perhaps my comments would evoke  
16 some answer from the committee chairman.

17 My concern is that by coupling this statement  
18 of authority of the Legislature to require bond,  
19 which is an authority that they already have, but by  
20 coupling it with the prohibition against ownership of  
21 property as a requirement for holding office could be





1 interpreted to mean that the bonding company could require  
2 ownership of property in order to issue a bond, and I  
3 should think that it something we would not want to happen.  
4 I agree with Delegate Sherbow that if the language is  
5 deleted, the General Assembly certainly has the power  
6 to require a bond, and I suggest that with the language in  
7 here there is the possible evil of the bonding company  
8 being able to require ownership of some property and thus  
9 prevent people from holding office.

10 THE PRESIDENT: Is there any further discussion?  
11 Delegate Ulrich.

12 DELEGATE ULRICH: I move the previous question.

13 THE PRESIDENT: Is there a second?

14 (Whereupon, the motion was duly seconded.)

15 THE PRESIDENT: The previous question having  
16 been moved and seconded, all in favor signify by saying  
17 aye; contrary, no. The ayes have it, it is so ordered.

18 The question arises on the adoption of Amendment  
19 No. 5. The Clerk will ring the quorum bell.

20 The question arises on the adoption of Amendment  
21 5 to delete lines 43, 44 and 45 on page 2. A vote aye



1 is a vote in favor of the amendment to delete the lines,  
2 a vote no is a vote against the amendment.

3 Cast your vote.

4 (Whereupon, a roll call vote was taken.)

5 THE PRESIDENT: Has every delegate voted?

6 Delegate James Clark.

7 DELEGATE JAMES CLARK: I vote aye.

8 THE PRESIDENT: Delegate James Clark votes aye.

9 Does any delegate desire to change his vote?

10 The Clerk will record the vote.

11 There being 64 votes in the affirmative and  
12 54 in the negative, the motion is carried. The amendment  
13 is adopted.

14 Delegate Fox.

15 DELEGATE FOX: Mr. Chairman, I would move to  
16 delete the entire Section 2.05.

17 THE PRESIDENT: Is the amendment yet printed?

18 DELEGATE FOX: No, it is not.

19 THE PRESIDENT: Is there any objection to  
20 considering the amendment by Delegate Fox to delete the  
21 entire Section 2.05, lines 32 to 42, inclusive, on





1 page 2 -- even though not printed?

2 The Chair hears none.

3 The amendment will be Amendment No. 6, to delete  
4 all of Section 2.05 comprising lines 32 to 42 on page 2.

5 Is there a second?

6 (Whereupon, the motion was duly seconded.)

7 THE PRESIDENT: The amendment has been seconded.

8 The Chair recognizes Delegate Fox.

9 DELEGATE FOX: Mr. Chairman, I don't want to  
10 belabor it, I think everybody understands the issue. I  
11 would only say that the matters that are contained therein  
12 are not necessary. They are found at other places in  
13 the constitution -- the important ones are -- and I see  
14 no reason to say anything more about it than that.

15 THE PRESIDENT: Delegate Koss.

16 DELEGATE KOSS: Mr. President, I don't know  
17 really what Delegate Fox refers to as the important ones.  
18 The reason the committee put this in is that there are  
19 a number of municipalities in the state of Maryland who  
20 now require that in order to vote a resident must own  
21 property. The committee felt very strongly that in this



1 day and age that should not be a requirement for voting.

2 Secondly, there are other municipalities who  
3 require that in order to be eligible to be elected as an  
4 officer of that municipality you have to in fact be a  
5 property owner.

6 Again, in 1967, we felt that had no place in  
7 our constitution. To take this out would permit these  
8 practices to continue on, and the committee felt very  
9 strongly that this should not be permitted.

10 For these reasons, I urge you to reject this  
11 amendment.

12 THE PRESIDENT: Delegate Fox.

13 DELEGATE FOX: Mr. Chairman, I only want to say  
14 that I am not in favor of requiring that people own property  
15 in order to vote, as I believe that is an unconstitutional  
16 provision wherever it may be found.

17 THE PRESIDENT: Is there any other discussion?

18 Delegate Beatrice Miller.

19 DELEGATE BEATRICE MILLER: Mr. Chairman,  
20 I have a question.

21 If we take this out, would it be possible then



1 for the State of Maryland to pass a law requiring property  
2 qualifications?

3 THE PRESIDENT: You said could the State of  
4 Maryland require it. I assume your question is could the  
5 Legislature require it under the terms of this constitution?

6 DELEGATE BEATRICE MILLER: Yes.

7 THE PRESIDENT: Delegate Koss.

8 DELEGATE KOSS: My reply would have to be that  
9 under the terms of the constitution they would have that  
10 power.

11 THE PRESIDENT: In the light of Section 2.01?

12 DELEGATE KOSS: We were talking in addition  
13 about holding elective office.

14 THE PRESIDENT: Well, I think her question  
15 was -- maybe I misunderstood it -- the question was as  
16 to whether the General Assembly could prescribe ownership  
17 of property as a condition or qualification for voting.

18 Did I misunderstand you, Delegate Miller?

19 DELEGATE BEATRICE MILLER: That was my question.

20 THE PRESIDENT: Delegate Koss.

21 DELEGATE KOSS: Mr. President, it was not for





1 voting but for holding office they could.

2 In municipal elections they could still require  
3 property ownership as a qualification for voting. 2.10  
4 refers to national, state and county elections.



1 THE PRESIDENT: Delegate Miller, do you have  
2 a further question?

3 DELEGATE MILLER: I understand now that property  
4 ownership could not be required by the General Assembly  
5 as a condition for voting. Could it then be required as  
6 a condition for holding office?

7 THE PRESIDENT: Delegate Koss?

8 DELEGATE KOSS: Under the Maryland Constitution  
9 I think this is within the power of the General Assembly.

10 THE PRESIDENT: Delegate Miller?

11 Delegate Cardin.

12 DELEGATE CARDIN. Mr. President, I would like to  
13 answer Delegate Miller a little more clearly for myself.

14 The courts have held that municipal elections,  
15 according to their own procedures, may have laws requiring  
16 property ownership. This is what we wish to delete, because  
17 we do have 21 such municipalities today that require anywhere  
18 from \$100 to \$500 real property ownership, and pay tax  
19 on them in order to have a right to the first vote.

20 This is what this section is geared to do. We  
21 want to eliminate as a right to vote in Bel Air, Havre de





1 Grace, and other municipalities, **the property**  
2 requirement, and we do have, and I believe you have it in your  
3 books, a list of all those municipalities that require  
4 property ownership.

5 I believe that the courts would find if we delete  
6 this entire section that could still continue.

7 THE PRESIDENT: Delegate Henderson.

8 DELEGATE HENDERSON: May I ask a question of  
9 Delegate Koss.

10 THE PRESIDENT: Delegate Koss, would you take  
11 to the floor to yield to a question?

12 DELEGATE KOSS: Yes, sir.

13 THE PRESIDENT: Delegate Henderson.

14 DELEGATE HENDERSON: Is it not true that this  
15 provision contains also an exception which permits some  
16 municipal corporations to allow non-resident voters to vote  
17 if they have property qualifications; that is, I believe,  
18 the case in Ocean City, and I remember quite a discussion on  
19 the point when this matter was before the Committee of the  
20 Whole, so that all that would go down the drain, would it  
21 not, if this section were exorcised from the Constitution?



1 THE PRESIDENT: Delegate Koss.

2 DELEGATE KOSS: That is correct.

3 THE PRESIDENT: Delegate Koss, would it be correct  
4 in the light of section 2.02?

5 DELEGATE KOSS: That is what I was trying to  
6 read.

7 THE PRESIDENT: May I state what I think you  
8 mean?

9 Speaking only to the first sentence in section  
10 2.05, lines 35 to the middle of line 39, if that were deleted,  
11 I take it that section 2.01 would prevent the General  
12 Assembly from prescribing property ownership as a condition  
13 for voting in any national, state or county elections.

14 But that section 2.02 would authorize a municipal  
15 corporation subject to such procedures as might be established  
16 by a public general law to prescribe such a qualification;  
17 is that correct?

18 DELEGATE KOSS: That is correct.

19 THE PRESIDENT: Now, as to the second sentence,  
20 if I understand your earlier statement, nothing in Article  
21 200, other than this sentence, deals with qualifications for



1 holding office other than residential qualifications, perhaps  
2 in Article 3, and if this section were deleted and no other  
3 provision included elsewhere in the Constitution, the  
4 General Assembly would be able to prescribe property owner-  
5 ship as a condition for holding elective or appointive  
6 office; is that the answer?

7 DELEGATE KOSS: That is correct, sir.

8 THE PRESIDENT: Delegate Miller, does that answer  
9 your earlier question?

10 DELEGATE BEATRICE MILLER: Yes.

11 THE PRESIDENT: Delegate White.

12 DELEGATE WHITE: Mr. President, this is in a  
13 slightly lighter vein for one minute.

14 One of the financial giants in the Convention  
15 here just advised me that I have been making a tax on banks  
16 when insurance companies are really the ones who are  
17 responsible, so I am in error, and I apologize for that. I  
18 was told in a recent debate that it was good that the two  
19 of us were in this Convention, because that gave other people  
20 an opportunity to know that we didn't all think the same  
21 thing, and maybe this is good today. I just hope that my





1 colleague to the very, very far right of this room feels that  
2 he has lost his visibility, because I can still see him.

3 THE PRESIDENT: Delegate Freedlander.

4 DELEGATE FREEDLANDER: Mr. President, I have a  
5 question for you if I may.

6 In the 1867 Constitution it has no provision  
7 such as is contemplated here. Would the R&P provision  
8 with regard to equal protection of the laws not protect  
9 a person with regard to this provision if this provision  
10 were deleted?

11 THE PRESIDENT: I am too much of a lawyer to answer  
12 that question. I wouldn't hazard an answer. I would hazard  
13 a guess that I would be very dubious about it, but I certainly  
14 wouldn't express that as an opinion.

15 I had a hazy recollection that there was some  
16 general provision as to holding office in either the declara-  
17 tion of rights or elsewhere in the present Constitution, but  
18 I am not at all sure of it.

19 Mr. Smolka, do you know whether there is any  
20 provision in the present Constitution as to qualification  
21 for office?



1 MR. SMOLKA: No, I don't.

2 THE PRESIDENT: Delegate Bamberger.

3 DELEGATE BAMBERGER: Delegate Fox stated he  
4 thought other provisions in either the state or federal  
5 Constitution would prohibit the General Assembly from  
6 requiring ownership of property. There is a case that was  
7 decided by the New York Court of Appeals on October 26.

8 I only have an excerpt from it, because the  
9 entire opinion was not available. There was a New York  
10 law which required the elected office holders of townships  
11 to own property, and the New York Court of Appeals held that  
12 that violated both the equal protection and the due process  
13 clauses of the federal Constitution.

14 I don't know of any other opinion on the subject.  
15 I have not been able to get the full text of that opinion.  
16 If that is correct, then I think Delegate Fox is quite  
17 correct that everything that is attempted to be done  
18 by 2.05 is done by either the federal Constitution or  
19 by section 2.02, which would permit the municipal corporation  
20 to establish qualifications for property ownership by  
21 non=resident voters, but not by resident voters.





1 THE PRESIDENT: The Maryland Constitution also  
2 has an equal protection clause.

3 Delegate Rybczynski.

4 DELEGATE RYBCZYNSKI: Delegate Bamberger's <sup>comments</sup> /  
5 right now reminded me when Delegate Sherbow told us what  
6 lawyers do before lay juries referring to cases from out  
7 of state.

8 There was ample evidence before our committee that  
9 this is, in fact, a constitutional provision, that the latest  
10 from the Supreme Court indicates that it is perfectly all  
11 right.

12 THE PRESIDENT: Delegate Rybczynski, I am not sure  
13 what is meant by your last phrase. You said that it is  
14 perfectly all right. That what is all right?

15 DELEGATE RYBCZYNSKI: That the provisions we have  
16 included in 2.05 are constitutional as interpreted today,  
17 the equal protection clause. No problem.

18 THE PRESIDENT: Delegate Carson.

19 DELEGATE CARSON: Mr. President and ladies and  
20 gentlemen: We have had difficulty in Harford County for some  
21 time in regard to property qualifications for voting, and



1 to a much lesser extent to holding office.

2 The Town of Aberdeen, in a hotly contested  
3 and very close election eliminated its property requirement.

4 The Town of Bel Air still has a property require-  
5 ment disenfranchising all those who do not own \$500 worth  
6 of assessed property. That means that most people who  
7 live in apartments and don't own homes can't vote.

8 In Havre de Grace we still have a requirement of  
9 ownership in property in order to be elected as an officer  
10 in Havre de Grace.

11 I have no question that the vast majority of  
12 people in Harford County desire the abolition of these old  
13 and outdated provisions. I think the Constitutional  
14 requirement that there be no such property requirement would  
15 be salutary.

16 If in fact this is also the law, then I think  
17 this addition of language would not be harmful. The Mayor  
18 and Town Council of Bel Air want to see what the Constitution  
19 says to see if they should do something about their  
20 antiquated provision in regard to this.

21 THE PRESIDENT: Any further discussion? I think



1 in light of the comment that has been made, I should make  
2 a statement now that was just made to me by Mr. Smolka, the  
3 staff advisor to the committee. I asked him if there were  
4 anyany authorative recent decisions of the Supreme Court  
5 as to whether ownership of property as a qualification for  
6 holding office was a denial of equal protection of the laws.

7 His answer was that so far as he is aware, and so  
8 far as the committee was able to ascertain, there are no  
9 recent decisions squarely on the point; that there are a  
10 number of municipalities which have such qualification in  
11 Maryland at the present time.

12 His opinion as adviser to the committee is that  
13 if those provisions are attacked, the courts will hold them  
14 invalid, but they can give you no assurance that that  
15 result will follow, and can give you no absolute authority.

16 I don't know whether that helps the situation  
17 or muddies the waters, but there it is for what it is worth.

18 Are you ready for the question?

19 The Clerk will ring the quorum bell.

20 The question arises on the adoption of amendment  
21 No. 6, which would delete all of section 2.05 comprising





1 lines 32 through 42 on page 2. A vote Aye is a vote in  
2 favor of the amendment, and will delete the entire section.  
3 A vote No is a vote against, and will leave the section down  
4 to and including line 42, the last three lines having  
5 already been deleted by amendment 5.

6 is  
7 A vote Aye, /a vote in favor of deleting the  
8 entire section; a vote No a vote against.

9 Cast your vote.

10 Has every delegate voted? Does any delegate  
11 desire to change his vote?

12 Delegate James Clark.

13 DELEGATE JAMES CLARK: No.

14 THE PRESIDENT: Delegate James Clark votes No.

15 Any delegate desire to change his vote?

16 The Clerk will record the vote.

17 There being 34 votes in the affirmative and  
18 90 in the negative, the motion is lost, and the amendment  
19 is rejected.

20 Are there any amendments, any further amendments  
21 to section 2.05?

The Chair hears none. Any amendments to



1 section 2.06? The Chair hears none.

2 Any amendments to section 2.07?

3 Delegate Koss, you have an amendment B. Do you  
4 desire to offer it?

5 DELEGATE KOSS: Yes, Mr. President, I do.

6 THE PRESIDENT: Pages will please distribute  
7 amendment B.

8 This will be amendment No. 7. The Clerk will  
9 read the amendment.

10 MR. QUILLEN: Committee recommendation No. 7  
11 as amended by Report No. S&D-11, to committee recommendation  
12 No. S&E-1 and S&E-2, by Delegates Koss and Byrnes:

13 On page 3, section 2.07: Conduct of Elections in  
14 line 16 after the period strike the word "The", strike all  
15 of lines 17, 18, 19, and on line 20 strike the word  
16 "Section.";

17 And in line 25 after the period add this new  
18 sentence:

19 "The General Assembly shall establish by law a  
20 state agency to supervise and ensure the uniform  
21 administration of laws enacted by the General Assembly





1 pursuant to this section."

2 The amendment having been **submitted** by Delegate  
3 Koss, and seconded by Delegate Byrnes, the Chair recognizes  
4 Delegate Koss.

5 DELEGATE KOSS: Mr. President, and fellow dele-  
6 gates: In its memorandum covering style and drafting report  
7 No. 11, the committee pointed out an apparent contradiction  
8 in section 2.07. The General Assembly may establish a  
9 state agency to insure uniform administration of the laws  
10 pursuant to this section. Some of the laws referred to  
11 are municipal laws which appear to permit variation. One  
12 sentence says the laws may vary. Another provides an  
13 agency to assure the uniform administration of the law.

14 Amendment 7 is offered to clear up this incon-  
15 sistency. The sentence which was stricken is reinserted  
16 at the end of the section with the additional language of  
17 "laws enacted by the General Assembly" so that it would  
18 limit the supervision and uniform administration of laws  
19 to those laws enacted by the General Assembly and not apply  
20 at all to laws enacted by municipalities.

21 I think this amendment would eliminate the



1 discrepancy, and the inconsistency, and make clear the intent  
2 of the committee.

3 THE PRESIDENT: Any questions of the committee  
4 chairman?

5 Delegate Byrnes.

6 DELEGATE BYRNES: I would like to address a  
7 question to the chairman, if I may.

8 THE PRESIDENT: Delegate Koss, do you yield to  
9 a question?

10 DELEGATE KOSS: Yes.

11 THE PRESIDENT: Delegate Byrnes.

12 DELEGATE BYRNES: Delegate Koss, for stylistic  
13 consistency would you accept an amendment to line 10 of  
14 amendment 7, and substitute for the word -- I'm sorry,  
15 line 11, amendment 7, substitute for the word "enacted"  
16 the word "passed"? The style has been consistently using  
17 "passed" rather than "enacted." I meant to correct this  
18 before it got to the printer.

19 DELEGATE KOSS: Delegate Byrnes, I would have no  
20 objection to the substitution of that word "passed" for the  
21 word "enacted".



THE PRESIDENT:

1 Delegate Penniman, is it correct that the Committee  
2 on Style at other places is using the word "passed" instead  
3 of "enacted"?

4 DELEGATE PENNIMAN: Mr. President, that is true,  
5 yes. We have been assuming that "enacted" included the  
6 enactment which makes it a law, including also the action of  
7 the Governor.

8 THE PRESIDENT: Isn't that what is intended here?

9 I am not sure that I understand you.

10 DELEGATE PENNIMAN: In this particular case,  
11 it should be enacted. It is quite all right to say  
12 "enacted" in this case.

13 THE PRESIDENT: In other words, when you say  
14 "law enacted by the General Assembly" you mean a law or a  
15 bill "passed" by the General Assembly, and either signed  
16 by the Governor or passed by the General Assembly over his  
17 veto.

18 DELEGATE PENNIMAN: That is correct. The use of  
19 the word "passed" is only prior to the action by the  
20 Governor.

21 THE PRESIDENT: Very well. I take it, Delegate





1 Koss, you do not concur in the change?

2 DELEGATE KOSS: I seem to have been misled.

3 THE PRESIDENT: Delegate Gleason.

4 DELEGATE GLEASON: Madam Chairman, I recall  
5 your conversation with Delegate Della before, but would you  
6 enlighten me again as to the necessity for having a state  
7 agency instead of just providing that the General Assembly  
8 shall establish for the supervision and uniform administra-  
9 tion of laws enacted pursuant to this section? Why wouldn't  
10 you leave with the General Assembly the discretion whether  
11 to give this duty to the Attorney General's office or some  
12 other office? Why is the state agency in the Constitution  
13 to do this job?

14 THE PRESIDENT: Delegate Koss?

15 DELEGATE KOSS: Delegate Gleason, I wonder if  
16 your quarrel is with the use of the word "state agency"?

17 THE PRESIDENT: I think his point is that by  
18 requiring a state agency you require the creation of some  
19 agency, and not perhaps authorize the General Assembly  
20 to provide that the Attorney General, the official, could  
21 provide for uniform interpretation. Is that your point,



1 Delegate Gleason?

2 DELEGATE GLEASON: Precisely. My point is  
3 if you set forth a state agency, that means a state agency.

4 THE PRESIDENT: Delegate Koss?

5 DELEGATE KOSS: It was not our intention that  
6 the General Assembly could not in fact delegate this. What  
7 we were saying was that they should establish an act of the  
8 state, and we are not saying that it has to be another  
9 agent.

10 THE PRESIDENT: Delegate Gleason, did you have  
11 a further question?

12 DELEGATE GLEASON: Am I supposed to say something  
13 after that?

14 THE PRESIDENT: I just want to know if you have  
15 a further question.

16 DELEGATE GLEASON: Do you have anything to add,  
17 Mr. President?

18 THE PRESIDENT: I think what Delegate Koss is  
19 saying is that by the use of the words "State agency", the  
20 committee does not intend to indicate that the General  
21 Assembly must establish a new state agency. The committee





1 feels that "state agency" is broad enough to include  
2 state official, and that the General Assembly could  
3 delegate the duty of supervision to an official such as  
4 the Attorney General.

5 Delegate Gleason.

6 DELEGATE GLEASON: In view of Delegate Koss's  
7 remarks, I am wondering, seriously, whether she wouldn't  
8 consider an amendment which would delete the state agency.

9 THE PRESIDENT: Can you suggest precisely what  
10 you have in mind?

11 DELEGATE GLEASON: Yes, if I can stop looking  
12 at bills for just a minute and just provide that the  
13 General Assembly shall provide by law for the supervision  
14 and the uniform administration of laws enacted by the  
15 General Assembly pursuant to this section.

16 That gives them a positive duty. They can put it  
17 with the Attorney General or some other office of the  
18 executive department.

19 THE PRESIDENT: Delegate Koss, did you hear  
20 the suggestion? It was that the sentence would read "the  
21 General Assembly shall prescribe by law for the supervision



1 and uniform administration of laws enacted by the General  
2 Assembly pursuant to this section."

3 DELEGATE KOSS: Mr. President and Delegate  
4 Gleason, the reason that we put in this very explicit  
5 language was that the present Constitution says that the  
6 General Assembly shall provide by law for a uniform  
7 registration of all the names of the voters, and so forth.  
8 There was an abundance of evidence presented to our  
9 committee that despite this uniform registration requirement  
10 that, in fact, it was not uniform, and it was for this  
11 reason that we felt it necessary to indicate that there be  
12 an agent of the state that was so responsible.

13 THE PRESIDENT: I take it you would not accept  
14 the change.

15 DELEGATE KOSS: That is correct.

16 THE PRESIDENT: Delegate Gleason.

17 DELEGATE GLEASON: Is the delegate familiar  
18 with the fact that the legislative counsel has recommended  
19 a bill calling for the establishment of a State Administra-  
20 tive Board of Election Laws.

21 THE PRESIDENT: Delegate Koss.



1 DELEGATE KOSS: We were aware of that. We  
2 were aware that it was a recommendation of the legislative  
3 counsel.

4 THE PRESIDENT: Any further question, Delegate  
5 Gleason?

6 Is there any further discussion? Are you  
7 ready for the question?

8 The Clerk will ring the quorum bell.

9 The question arises on the adoption of Amendment  
10 No. 7. A vote Aye is a vote in favor of the amendment.  
11 A vote No is a vote against.

12 Cast your vote.

13 Has every delegate voted?

14 Delegate James Clark.

15 DELEGATE JAMES CLARK: I vote Aye, sir.

16 THE PRESIDENT: Delegate James Clark votes Aye.

17 Does any delegate desire to change his vote?

18 The Clerk will record the vote.

19 There being 91 votes in the affirmative and 18  
20 in the negative, the amendment is adopted.

21 Any further amendments to section 2.07?





1 Delegate Gleason.

2 DELEGATE GLEASON: Mr. President, since this  
3 amendment was just presented to us upon which we voted, I  
4 haven't had time to carry out an amendment to carry out my  
5 dialogue with Delegate Koss. I wonder if it would be  
6 possible to get unanimous consent to have the Convention  
7 consider the amendment which I indicated to the Chair a  
8 few moments ago.

9 THE PRESIDENT: Is there any objection to  
10 consid ering, although not printed, an amendment to  
11 section 2.07 as amended by 2.07 that would strike from line  
12 -- which would make lines 9 to 12 of of amendment 7 read  
13 as follows: "The General Assembly shall prescribe by law  
14 for the supervision and uniform admmistration of laws  
15 enacted by the General Assembly pursuant to this section."

16 The Chair hears no objection. This will be  
17 amendment No. 8.

18 Delegate Koss, could you read that again?

19 DELEGATE KOSS: I will.

20 Amemdnt 8 in section 2.07, and in the language  
21 added by amendment 7 in line 9, strike the word "established"



1 and insert in lieu thereof the word "prescribe", and in  
2 line 10 strike the words "a state agency to supervise and  
3 insure this", and insert the words "for the supervision and".

4 THE PRESIDENT: Did you get the amendment,  
5 Delegate Gleason?

6 Delegate Koss, do you want me to give it to  
7 you again?

8 DELEGATE KOSS: Please.

9 THE PRESIDENT: In the language added by amendment  
10 7, line 9, strike the word "establish" and insert the word  
11 "prescribe". In line 10 strike the words "a state agency  
12 to supervise and insure the", and insert the words " for  
13 the supervision and".

14 The amendment is submitted by Delegate Gleason.  
15 Is there a second?

16 The amendment having been seconded, the  
17 Chair recognizes Delegate Gleason.

18 DELEGATE GLEASON: Mr. **President** and fellow  
19 delegates, I don't think much more need to be said than  
20 really was already said by the Chairman of the Committee, and  
21 as I recall her comments, it was to the effect that the





1 committee did not intend necessarily to have a new state  
2 agency to carry out this supervision, and watch the  
3 uniform administration of the laws, but if it would  
4 satisfy the purposes of the provision, to give this duty  
5 to the Attorney General or any other existing agency just  
6 so the job would be done.

7 As I read section 5 of the existing Constitution  
8 all it requires is that the General Assembly provide by  
9 law for a uniform registration. This goes beyond that  
10 point. It provided for the supervision of those laws so  
11 I would suggest that it would serve our purposes to delete  
12 the requirement for a new state agency for this purpose, and  
13 give the General Assembly some discretion. We are electing  
14 these people to office, and they ought to use their heads.  
15 We should leave something for the legislatures to do.  
16 The Legislative Counsel has recommended a bill for the  
17 State Board of Examiners. This is new, and it shows that  
18 they are moving in this direction.

19 I hope you would delete this state agency.

20 THE PRESIDENT: Delegate Koss.

21 DELEGATE KOSS: Mr. President, the committee



1 certainly had no intention to create a new state agency  
2 and if the use of the words is misleading, we would be  
3 interested primarily that there would be some provision  
4 which would be a mandate to the General Assembly that the  
5 election laws be administered uniformly throughout the  
6 state.

7 I cannot really in good conscience argue very  
8 hotly against this amendment. If any other members of the  
9 committee would like to do so, they are welcome to it.

10 THE PRESIDENT: Delegate Schneider.

11 DELEGATE SCHNEIDER: Mr. Chairman and ladies and  
12 gentlemen: I would suggest to Delegate Gleason that he is  
13 fighting the wrong war at the wrong time. If he wanted to  
14 fight the battle of the judicial branch article, I would  
15 suggest that he do that yesterday, and not today. I think  
16 he was strangely silent as I recall yesterday about the  
17 General Assembly's prerogatives in that area. I think he  
18 may have given himself away as far as that goes, when he  
19 mentioned the judicial branch in his original speech.

20 I think that there was no intent on the part of the  
21 committee to establish an agency. The committee was in



1 no position to establish anything, but I think that we  
2 did want the General Assembly to establish by law a state  
3 agency.

4 Now, this state agency would be established under  
5 the discretion of the General Assembly, and they might in  
6 their wisdom establish an agency of one person, or whatever  
7 they thought they needed, a Board of Election Supervisors  
8 for the state, if that was what they wanted.

9 What we are attempting to do was to meet a need  
10 and that need was for uniformity in the administration of  
11 election, and election law. It was made very evident to  
12 us in testimony before our committee that those people  
13 who were charged with responsibility in this state of  
14 carrying this out would want very much to have some sort  
15 of uniform state guidelines, and administration that they  
16 could use that the present language in our present 1867  
17 Constitution was not strong enough, and did not go far  
18 enough to that purpose, and that the purpose of our  
19 language was simply to meet the need that we felt we  
20 became convinced was there, and became convinced by those  
21 people in the state who are charged with that responsibility





1 today, and for that reason I would hope that you would  
2 defeat the Gleason amendment.

3 THE PRESIDENT: Delegate Key.

4 DELEGATE KEY: Mr. President and fellow  
5 delegates. I certainly am aware of the problems that are  
6 prevailing in the Board of Election Supervisors throughout  
7 the state and, true, there is a lack of uniformity.

8 However, I don't think that we can correct that  
9 ill, or those ills that prevail there in the Constitution.  
10 They are too far-reaching, and they go beyond the matter  
11 of interpreting the laws that have been set down as you  
12 know, when you -- as you learn when you study this question.  
13 Even this is being handled by the legislative counsel.

14 Now, I am wondering, really, if this section is  
15 needed at all from lines 16, the word "the" down to the  
16 word "section" in line 20.

17 If we are saying that our purpose is to provide  
18 for the uniform administration of elections, this has  
19 already been stated in lines 13 and 14. If we are trying  
20 to specifically set up an agency to correct the ills that  
21 are presently existing, I say that this is a matter truly



1 for the legislature because they are more -- well, they  
2 are more like an octopus than anything you can imagine.

3 THE PRESIDENT: Any further discussion?

4 Delegate Hutchinson, did you desire the floor?

5 Delegate Gill?

6 DELEGATE GILL: I would like, Mr. President,  
7 Mr. Chairman, and fellow delegates, I would like to support  
8 the amendment. It seems to me that the committee is against  
9 it because it doesn't state the words that they use, but  
10 when they talk against it, they say they are for the same  
11 things that the words of this amendment say, so if they are  
12 for what the amendment says, why not vote for it?

13 The amendment says it is not for state agencies,  
14 and they say they don't want to appoint a state agency. If  
15 you are going to put it in the Constitution, let us not  
16 bind it in the Constitution that it must be in this particular  
17 form. Let us have it in the words of the amendment so  
18 there will be a little flexibility.

19 THE PRESIDENT: Delegate Cardin.

20 DELEGATE CARDIN: I would like to voice my  
21 approval and support of Delegate Gleason's amendment. As





1 one of the committee who did not vote with the committee  
2 report to include the word "state agency," I feel as  
3 Delegate Gleason felt, and therefore proposed this amendment.  
4 We want to insure the supervision of the election laws  
5 by whichever way the General Assembly feels it could best  
6 do so, and the recommendation of the Legislative Counsel  
7 would probably carry that out best, and I for one will  
8 support the amendment.

9 THE PRESIDENT: Delegate Marvin Smith?

10 DELEGATE MARVIN SMITH: I move the previous  
11 question.

12 THE PRESIDENT: The previous question has been  
13 moved and seconded. All in favor signify by saying Aye.  
14 Contrary No.

15 The Ayeas have it, and it is so ordered.

16 The question arises on the adoption of amendment  
17 8. Amendment 8, the language added would read "The  
18 General Assembly shall prescribe by law for the supervision  
19 and uniform administration of laws enacted by the General  
20 Assembly pursuant to this section."

21 A vote Aye is a vote in favor of the amendment 8.



1 A vote No is a vote against.

2 Cast your vote.

3 The Clerk will ring the quorum bell, please.

4 Cast your votes.

5 Delegate James Clark.

6 DELEGATE JAMES CLARK: I vote Aye.

7 THE PRESIDENT: Delegate James Clark votes Aye.

8 Have all delegates voted? Does any delegate  
9 desire to change his vote?

10 The Clerk will record the vote.

11 There being 94 votes in the affirmative, and 14  
12 in the negative, the motion is carried, and the amendment  
13 is adopted.

14 Are there any other amendments to section 2.07?

15 Delegate Burdette.

16 DELEGATE BURDETTE: Mr. President, may I propound  
17 a parliamentary inquiry which comes from the problem of  
18 dealing with an amendment without seeing it in writing, and  
19 I might say somewhat facetiously from the persuasiveness  
20 of the President.

21 What parliamentary action can be taken to assure



1 that the language taken by the Storm amendment, which is  
2 now here for 2.04, providing that persons shall not be  
3 deemed ineligible to register a vote in land over which  
4 the United States has been ceded jurisdiction?

5 My query is can that properly be construed to  
6 include persons now living in the District of Columbia?

7 THE PRESIDENT: Delegate Storm, you rise, so I  
8 suppose you have an answer ready.

9 DELEGATE STORM: At the risk of giving my answer  
10 rather than getting one from you, there is a case decided  
11 two years ago, Albaugh vs. The Governor, "Hot Dog" Simpkins,  
12 et al, which said that since the Organic Act passed by  
13 Congress in I think 1801, there is absolutely no citizenship  
14 left for the District of Columbia in Maryland, so these  
15 people are definitely out. The word "solely" should also  
16 be mentioned there.

17 There is no possibility of this, in my opinion,  
18 because of the case of Albaugh vs. The Governor.

19 THE PRESIDENT: I am not sure that is an  
20 adequate answer. It is the meaning of the language. The  
21 State of Maryland did cede jurisdiction to the national





1 government over the District of Columbia. To answer your  
2 parliamentary inquiry, Delegate Burdette, I make this  
3 suggestion: I think this is a matter that the Chair would  
4 request the staff advisor to the committee to have  
5 researched this evening. The Committee on Style has the  
6 privileged status of being able to move for reconsideration  
7 at any time, and would be afforded this opportunity so that  
8 the question could be raised again, but I think we ought  
9 to have more definite answers before it is decided.

10 DELEGATE BURDETTE: I might say, I should if there is  
11 any parliamentary way to do it, and if it should seem  
12 under any circumstances necessary to move it, if it be  
13 possible to move it, I am trying to move it -- some such  
14 language: "but this section shall not be construed to apply  
15 to the territory now in the District of Columbia."

16 THE PRESIDENT: Well, I think this is a matter  
17 that can be left to the Committee on Style. It is the intent  
18 of the Convention, it is abundantly clear that it is not/  
19 by section 2.04 to enfranchise residents of the District  
20 of Columbia.

21 DELEGATE HARDWICKE: I would like to point out



1 that 2.04 says "that they shall not be deemed ineligible  
2 by this fact", there is another fact that makes them  
3 ineligible, namely, they are not residents of the State of  
4 Maryland.

5 It seems to me that that is conclusive; that they  
6 would not have any rights by reason of their non-residency.  
7 In other words, there are other disqualifications.

8 THE PRESIDENT: I am afraid that is not the  
9 complete answer. That is exactly the answer given  
10 for residents of federal enclaves, that they are not  
11 residents of Maryland.

12 In any event, I think the question certainly  
13 ought to be carefully researched, and if Mr. Smolka can  
14 give us the answer tomorrow, we can act on it.

15 Delegate Sherbow.

16 DELEGATE SHERBOW: Mr. President, I don't have  
17 any ancestors who would whisper to me from these walls,  
18 but the whisper that comes from back here is a clear  
19 indication of what Professor Burdette has asked, and some  
20 of us would like to say to the District of Columbia: "No,  
21 we won't take them back."





1 THE PRESIDENT: Any further amendments to  
2 section 2.08?

3 Delegate Pullen.

4 DELEGATE PULLEN: Mr. President, I don't know  
5 about the legality of all this, but I am getting disturbed  
6 about the citizenship of all the people in the northwest  
7 territory.

8 THE PRESIDENT: Any further amendments to section  
9 2.09? The Chair hears none.

10 Any amendments to section 2.10? The Chair hears  
11 none.

12 Any amendments to section 2.11? Any other  
13 amendments to section 2.11? The Chair hears none.

14 Any amendments to section 2.12? The Chair hears  
15 none.

16 Any amendments to section 2.13? The Chair hears  
17 none.

18 Any further amendments to any section of  
19 committee recommendations S&E-1 and -2? If not, the Clerk  
20 will ring the quorum bell.

21 Delegate Byrnes.



1 DELEGATE BYRNES: Mr. Chairman, may I direct a  
2 question to Delegate Koss?

3 THE PRESIDENT: Delegate Koss, will you take  
4 the floor to yield to a question?

5 DELEGATE KOSS: The whispers here say "no",  
6 but I will disregard them.

7 THE PRESIDENT: Delegate Byrnes.

8 DELEGATE BYRNES: Delegate Koss, does section  
9 2.09 on page 3 refer to national, state, county, and municipal  
10 elections?

11 DELEGATE KOSS: That is correct, Delegate  
12 Byrnes.

13 THE PRESIDENT: Delegate Byrnes.

14 DELEGATE BYRNES: And does section 2.06 refer to  
15 the national, state, county and municipal elections?

16 DELEGATE KOSS: That is correct.

17 THE PRESIDENT: Delegate Weidemeyer.

18 DELEGATE WEIDEMEYER: Mr. President, I wonder if  
19 without having the amendment printed, if we could change  
20 just one word in line 26 on page 4, in section 2.11. Line  
21 26, section 2.11, on page 4, and change the word "five"



1 to "three".

2 THE PRESIDENT: Is there any objection to  
3 considering the amendment suggested by Delegate Weidemeyer  
4 notwithstanding the fact that it has not been printed?

5 Delegate Cardin.

6 DELEGATE CARDIN: Mr. President, I will not  
7 object if the Convention wishes to enter this lengthy  
8 debate once more, but it took us two and a half hours the  
9 last time on this same amendment.

10 THE PRESIDENT: Delegate Weidemeyer.

11 DELEGATE WEIDEMEYER: I had thought that since  
12 we went over this matter that it would be more obvious  
13 now to all of the delegates that three percent would be  
14 the logical number, rather than the five which they  
15 decided on at that time.

16 THE PRESIDENT: Delegate Weidemeyer, you don't  
17 have the amendment before you yet. The Chair would like  
18 to inquire whether the Convention would be willing to  
19 accord the privilege to Delegate Weidemeyer to offer his  
20 amendment, with the understanding that he would speak to it  
21 not more than three minutes, and Delegate Koss would respond





1 not more than three minutes, and then somebody would move  
2 the previous question.

3 Is that acceptable?

4 Is there any objection to the amendment proposed  
5 by Delegate Weidemeyer, notwithstanding the fact that it is  
6 not printed? The Chair hears none. The proposed amendment  
7 is to change the word "five" in line 26 on page 4 to the  
8 word "three". It has been offered by Delegate Weidemeyer.

9 Is there a second.

10 (The motion was duly seconded)

11 THE PRESIDENT: The Chair recognizes Delegate  
12 Weidemeyer for not more than three minutes.

13 DELEGATE WEIDEMEYER: Mr. President, I will  
14 try to hold it down to that, but I think it is more  
15 obvious now than when we considered this matter before, that  
16 three percent is not the logical figure to place in there.  
17 That is the number that we have had in our Constitution,  
18 and when we were adopting a new Constitution -- and there  
19 are many, many new features, and there will be a raft  
20 of legislation, certainly somewhere along the line, and  
21 in many instances, the legislature may pass some acts which



1 meet with disapproval by a great many people, and so if  
2 you get in there at five percent, which almost doubles the  
3 number required, then I think you are saying to the people  
4 that we have got a new Constitution, we are prohibiting  
5 you, almost, from taking any of the laws out, and I think  
6 that we ought to give the people the assurance that in  
7 adopting a new Constitution and having the maze of  
8 legislation that will follow in the next few years that they  
9 at least ought to have a figure there that they can meet  
10 with reasonable certainty.

11 I have been through some of these referendum  
12 campaigns, and I want to say to each and every one of you  
13 here, if you engaged in it and had been through all of  
14 it, then you will realize what a great task it is to meet  
15 with the three percent, and if you are going to make it  
16 five, you are certainly making it prohibitive, and I would  
17 think that it would be one of the things in our new draft  
18 which would meet with a great deal of voter opposition,  
19 and I think you can lower that resistance of the voter  
20 to our new draft of the Constitution by sticking to  
21 our old figure of three percent, and leaving them feel sure



1 that in all this new maze of legislation they will at least  
2 have a reasonable chance to test it out before the people.

3 That is all I have to say, Mr. President. I  
4 hope that the amendment is adopted.

5 THE PRESIDENT: The Chair recognizes Delegate  
6 Koss for three minutes.

7 DELEGATE KOSS: Mr. President and fellow  
8 delegates:

9 As was pointed out before, we went through a great  
10 deal of debate on this. I would like at the moment to  
11 refresh your memories. I feel somewhat qualified to  
12 speak to this issue, because I, too, have engaged in  
13 collecting signatures, and while the present Constitutional  
14 requirement is three percent, the group that I worked with  
15 submitted a great deal more, and as a matter of fact met the  
16 five percent.

17 Certainly it was hard, but you don't want to  
18 make the referendum so easy that it is used to thwart  
19 the will of the people, as represented by their legisla-  
20 tures.

21 The whole discussion previously when we went over







1 this was that the referendum was a drain on the General  
2 Assembly. We had gone through a lot in trying to strengthen  
3 that body to act responsibly. It seems to me that it is  
4 foolish for us at the same time to grant them additional  
5 powers, and additional **statutes** and permit their acts to  
6 be challenged frivolously by a relatively small number of  
7 people.

8           Among the other things that have been brought  
9 to your attention time and time again is the growth of the  
10 State of Maryland in terms of its population. That popula-  
11 tion becomes highly concentrated, and I submit that  
12 getting five percent of the registered voters on petition  
13 is certainly not an impossible task. It has been done, and  
14 where the people are really interested and where the General  
15 Assembly has in fact gone against the best interest, or  
16 the wishes of a substantial number of our people, they have  
17 the use of the referendum, and it is a tool that they  
18 can use.

19           I earnestly urge that you defeat the amendment.

20           THE PRESIDENT: Are you ready for the question?

21           The Clerk will ring the quorum bell.



1           The question arises on the adoption of  
2 Amendment 9, not printed. The ~~amendment~~ will amend  
3 section 2.11 by substituting for the word "five", in line  
4 26 on page 4, the word "three".

5           A vote Aye is a vote in favor of the amendment.  
6 A vote No is a vote against.

7           Cast your vote.

8           Has every delegate voted?

9           Delegate James Clark.

10          DELEGATE JAMES CLARK: No.

11          THE PRESIDENT: Delegate James Clark votes No.

12          Does any delegate desire to change his vote?

13          The Clerk will record the vote.

14          There being 39 votes in the affirmative, and  
15 78 in the negative, the amendment is lost, and the amendment  
16 is rejected.

17          Delegate Cardin.

18          DELEGATE CARDIN: I have one question that I would  
19 like to ask to be certain before we vote on the entire S&E-1  
20 and -2. In the event that in the future the General  
21 Assembly will provide for the establishment of new



1 governing bodies such as regional government, is there  
2 any provision in the Constitution as we have drafted it now  
3 that will prevent the General Assembly from supervising and  
4 maintaining the election procedures of that new government?

5 THE PRESIDENT: Delegate Koss.

6 DELEGATE KOSS: Again, I have to refer back,  
7 but it seemed to me that the language in 7.08 gives the  
8 General Assembly that authority.

9 DELEGATE CARDIN: Thank you.

10 THE PRESIDENT: Delegate Schloeder.

11 DELEGATE SCHLOEDER: Mr. President, I rise on  
12 a point of personal privilege.

13 THE PRESIDENT: State the privilege.

14 DELEGATE SCHLOEDER: Delegate Weidemeyer has  
15 asked me to announce that he will have a page and a box  
16 at the door, and on adjournment will expect six and a half  
17 dozen crabs returned to him. (Laughter).

18 THE PRESIDENT: Delegate Koss, in view of your  
19 answer to the previous question, either I misunderstood  
20 the question or you do.

21 As I understand the question, it was: Would there







1 be anything in the Constitution which would prevent the  
2 legislature from providing by law for the conduct of  
3 elections in any new governmental units not now in existence  
4 such as a regional government.

5 Delegate Koss.

6 DELEGATE KOSS: There is nothing in the Consti-  
7 tution that would prevent the General Assembly from  
8 so doing.

9 THE PRESIDENT: And section 2.07 would apparently  
10 give the General Assembly explicit authority to do so,  
11 would it not?

12 DELEGATE KOSS: It seems to me, Mr. President,  
13 it has to be read in conjunction with the provisions of  
14 the local government article.

15 THE PRESIDENT: What you are saying is that  
16 there is nothing in the local government article that would  
17 take away from the power of the General Assembly under  
18 2.07 providing regulations.

19 Does that answer your question, Delegate Cardin?

20 DELEGATE CARDIN: Yes.

21 THE PRESIDENT: The question now arises on the



1 adoption on second reading of committee recommendations  
2 S&E-1 and S&E-2, as amended. Are you ready for the question.

3 The Clerk will ring the quorum bell.

4 The question arises on the adoption of Committee  
5 recommendations S&E-1 and S&E-2, second reading, as amended.  
6 A vote Aye is a vote in favor of the two committee  
7 recommendations as amended. A vote No is a vote against.

8 Cast your votes.

9 Has every delegate voted? Does any delegate  
10 desire to change his vote?

11 The Clerk will record the vote.

12 There being 110 votes in the affirmative, and  
13 six in the negative, committee recommendation S&E-1 and  
14 S&E-2 as amended are adopted on second reading.

15 Have the pages distributed the amendment marked  
16 "D"? That was amendment 3 on which you have already acted.

17 Pages will now please distribute corrected copies  
18 of Report S&E-10 of the Committee on Style, Drafting and  
19 Arrangement. This contains committee recommendation SF-2, 3,  
20 4 and 5.

21 This is a corrected -- a revised copy of the



1 recommendation distributed to you yesterday. Please get  
2 out and destroy, tear, if you will, please, the copy  
3 that is not marked "corrected copy," so that we will not  
4 have any confusion.

5 The only copy you should keep is the one that has  
6 at the top of each page the words "corrected copy". There  
7 are four sheets, two pages of report, and six pages of  
8 the recommendation. Please make sure that you have the  
9 correct one.

10 The changes made are not of great substance from  
11 the one you had last night, this will be the first matter  
12 for consideration immediately after the dinner recess.

13 Any further reports, Mr. Clerk?

14 The Committee on Style report S&D-12. The Clerk  
15 will read the report.

16 MR. QUILLEN: Committee on Style, Drafting and  
17 Arrangement Report No. S&D-12.

18 "A report concerning Committee Recommendation  
19 No. GP-6."

20 THE PRESIDENT: The report is referred to the  
21 Committee on Calendar and Agenda. It is now being printed.







1 It will be completed during the dinner recess, it will  
2 be on your desk when you return. It will be on the calendar  
3 for action tomorrow.

4 Are there any announcements by committee  
5 chairmen necessary to be made before recess for dinner?

6 DELEGATE MUDD: Mr. President, may I remind  
7 the members of the Committee on the Judicial Branch that  
8 we have an important meeting tomorrow morning at 11:30  
9 in our meeting room at H-9. The importance is that we  
10 have our group photograph.

11 THE PRESIDENT: Delegate Mudd, that may have to  
12 be changed. We will tell you soon after recess whether we  
13 will be meeting tomorrow morning. We may have to meet early  
14 tomorrow morning.

15 DELEGATE MUDD: Announcement rescinded.

16 THE PRESIDENT: Delegate Boyer.

17 DELEGATE BOYER: The Committee on General  
18 Provisions will have a most important meeting tomorrow  
19 morning at 9:30 over in our committee rooms.

20 At 11 o'clock we will have our picture taken,  
21 so wear your best. I will make the announcement again  
tonight after we adjourn, perhaps for the evening session,



1 but it is very important that all General Provisions  
2 Committeemen take note that we will have a working meeting  
3 tomorrow morning at 9:30.

4 THE PRESIDENT: Any further announcements by  
5 committee chairmen?

6 Delegate Penniman.

7 DELEGATE PENNIMAN: There will be a meeting of the  
8 Committee on Style, Drafting and Arrangement, briefly,  
9 immediately after the conclusion of this session.

10 THE PRESIDENT: Any other announcements from  
11 committee chairmen?

12 Any announcements by other delegates?

13 The Chair recognizes Delegate Powers. All  
14 delegates not present in roll call may indicate their  
15 presence in supplemental roll call.

16 The Clerk will record supplemental roll call.

17 The Chair recognizes Delegate Powers.

18 DELEGATE POWERS: Mr. President, I move that  
19 we recess until 8:15.

20 THE PRESIDENT: All in favor signify by saying  
21 Aye. Contrary, No. The Ayes have it, and it is so ordered.



1 (Whereupon, at 6:45 o'clock p.m., the Convention  
2 recessed, to reconvene at 8:15 o'clock p.m., of the same  
3 day.)  
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1 THE PRESIDENT: The Convention will please come to  
2 order.

3 (Whereupon, a rollcall was taken.)

4 THE PRESIDENT: Has every delegate answered  
5 rollcall? The Clerk will record the rollcall.

6 There being a quorum present, the Convention is  
7 in session.

8 Reports of committees.

9 Report of the Committee on Style, Drafting and  
10 Arrangement No. S&D-13. The Clerk will read the report.

11 MR. QUILLEN: "Committee on Style, Drafting and  
12 Arrangement Report No. S&D-13.

13 "This report covers matters in Committee of the  
14 Whole Reports Nos. 10 and 17.

15 "A Report concerning Committee Recommendations  
16 No. EB-1 and EB-2."

17 THE PRESIDENT: The report is referred to the  
18 Committee on Calendar and Agenda. The report is being  
19 printed at the present time. Copies will be on your desk  
20 shortly. This will be on the agenda for action tomorrow.  
21 This is the article on the Executive Branch.



1 Report of the Committee on Style, Drafting and  
2 Arrangement, S&D-14. The Clerk will read the report.

3 MR. QUILLEN: "Committee on Style, Drafting and  
4 Arrangement Report No. S&D-14.

5 "This Report covers matters in Committee of the  
6 Whole Report No. 11, 28 & 27.

7 "A Report concerning Committee Recommendation  
8 Nos. LB-2, 3 and GP-10."

9 THE PRESIDENT: The report is referred to the  
10 Committee on Calendar and Agenda. This report also is being  
11 printed now and it will be on your desk shortly and it will  
12 be on the Calendar for action tomorrow.

13 This includes most of the remaining part of the  
14 Article on General Provisions. I think there is one other  
15 short one that also will be coming later this evening.

16 Are there any other reports, Mr. Clerk.

17 MR. QUILLEN: No other reports, Mr. President.

18 THE PRESIDENT: Any motions or resolutions? The  
19 Chair hears none.

20 The next item on the Calendar is a consideration  
21 of the report of the Committee on Style, Drafting and



1 Arrangement No. S&D-10. This is the report, the corrected  
2 copy of which you received just before the dinner recess.  
3 Please be sure the copy you have in front of you is the one  
4 marked "Corrected Copy" at the top of each page.

5 The Chair recognizes Chairman Penniman, Chairman  
6 of the Committee on Style, Drafting and Arrangement and  
7 suggests that he come forward to the reading desk. The Chair  
8 suggests that the Chairman of State Finance and Taxation take  
9 the desk usually occupied by Committee Chairman Penniman so  
10 they will be available for questioning.

11 Delegate Penniman.

12 DELEGATE PENNIMAN: Mr. President, the Committee  
13 on Style, Drafting and Arrangement is much indebted to the  
14 members of the Committee on State Finance and Taxation and to  
15 the staff adviser for the time which members of the committee  
16 and the staff adviser gave to our committee on Style,  
17 Drafting and Arrangement on into the evening on Friday last  
18 to assist us with the revisions and to make certain that  
19 there were no changes in substance but only in style. The  
20 changes are very few in any of these provisions.

21 In 6.01 there are no changes. In Section 6.02







1 about which there had been some discussion on the floor, the  
2 Committee on Style stated I think precisely the same thing.  
3 We believe that it is somewhat more clear than it was when  
4 it came to us from the floor because we have slightly  
5 regrouped the provisions which had been in 8.01-B and we have  
6 made sure -- as instructed from the floor by the Committee of  
7 the Whole, we have made certain that it complied in all  
8 respects with the provisions in Article 7, Section 7, on  
9 5, 6, and 7.

10 In 6.03 on assessments there is a change in  
11 wording with respect to property devoted to agricultural  
12 uses as prescribed by law changed to agricultural property  
13 as defined by the General Assembly by law and we have  
14 checked it with the committee and members of the committee,  
15 and I think I am correctly quoting members of the committee  
16 and the staff in saying that there is no change -- I give  
17 two quotations, one, that there is no change in the meaning  
18 of the words and, two, I think I am correct in saying that  
19 one of the members of the committee said it is better worded.  
20 But in either case there is no change in substance we have  
21 been assured as we asked the question.



1           We have changed in now 6.04 the phrase "political  
2 subdivisions" to "units of local government" to conform with  
3 the way in which we have stated it in Article 7.

4           We changed the words "equalized assessments" to  
5 "assessments equalized among these units" and added  
6 "prescribed by the General Assembly by law" simply for  
7 clarification purposes.

8           There is no change in 6.05, virtually no change  
9 in 6.06.

10           Again virtually no change in 6.07. We did add in  
11 line 22 "to be served" simply for emphasis.

12           In 6.08 and 6.09 there is no change except in  
13 6.09 to change the order slightly.

14           There is no change in 6.10 except very, very  
15 minor ones.

16           6.11 only again slightly changes in organization,  
17 not in content, and 6.11 and 12 again no change except either  
18 to shorten or to clarify and to make the matter brief. This  
19 is also true of 6.13 and 6.14 and 6.15. If you will <sup>notice</sup> in  
20 15 we have made some changes from "enacted" to "passed" and  
21 vice versa depending upon the content, "passed" when we



1 mean having passed the House and Senate but has not been  
2 signed. We use "enacted" where it has been signed. We drop  
3 down and there are no changes of any import in 6.16 and none  
4 I think in the section on the lottery will be transferred  
5 when it is tentatively decided that it will be transferred  
6 to the general provisions.

7 THE PRESIDENT: Are there any questions of the  
8 committee chairman? The Chair hears none.

9 Are there any questions of the Committee on  
10 Finance, State Finance, with respect to possible changes by  
11 these style amendments?

12 The Chair hears none.

13 Delegate Penniman may return to his seat.

14 Delegate Hardwicke.

15 DELEGATE HARDWICKE: Mr. President, I do have one  
16 question of the chairman.

17 THE PRESIDENT: Delegate Penniman, can you return  
18 to the reading desk please?

19 DELEGATE PENNIMAN: Yes.

20 DELEGATE HARDWICKE: Chairman Penniman, as I  
21 understand Section 6.03 as it passed here on first reading,







1 the sole test for whether or not property was agricultural  
2 property was that it be devoted to agricultural use. Now,  
3 since you have deleted that description and have just put  
4 in the generic adjective "agricultural," is it the intention  
5 of the committee that the sole test for whether a property is  
6 agricultural or not be determined by its use?

7 THE PRESIDENT: Delegate Penniman.

8 DELEGATE PENNIMAN: Let me in some sense perhaps  
9 avoid your question but state what we did and then if you  
10 have a further question, fine.

11 As it came to us from a subcommittee, it was  
12 changed for purposes -- the subcommittee thought of  
13 clarification by changing it to "agricultural property" as  
14 defined by the General Assembly law. When this was dis-  
15 cussed in the subcommittee the question was raised, Had there  
16 been any substantive change?

17 The question was put to those who were involved  
18 in our subcommittee and Mr. Walker Lewis who was there as  
19 the staff adviser to the Committee on State Finance and  
20 Taxation, and in turn it was put to other members of the  
21 Committee on State Finance and Taxation and we were assured



1 that there had been no change in the content of or in the  
2 meaning of these words, that it was one of simplification,  
3 but not a change in content.

4 THE PRESIDENT: Delegate Hardwicke.

5 DELEGATE HARDWICKE: It is still the intent that  
6 when the question arises in a specific case in the future  
7 as to whether or not a given piece of property is agricul-  
8 tural or not, there shall be one test and one test only and  
9 that is its use.

10 THE PRESIDENT: Delegate Penniman.

11 DELEGATE PENNIMAN: This would be my understanding,  
12 yes.

13 THE PRESIDENT: Any further questions of the  
14 chairman of the Committee on Style?

15 Delegate Mentzer.

16 DELEGATE MENTZER: I am not sure that Dr.  
17 Penniman's answer was entirely correct that there would be  
18 only one test now to be applied. The feeling was that now  
19 the 29 criteria or any other criteria made up by the General  
20 Assembly and carried out by the Department of Assessments  
21 could now be applied, and certainly use of the land is the





1 primary one, but there are 28 others including the amount of  
2 fertilizer use and how long it had been used in this way and  
3 did the owner make his living by some other method and all  
4 sorts of other things could now be considered in line with  
5 the Committee of the Whole intention to put "prescribed by  
6 law" originally at the end of this clause which the old  
7 Constitution did not have.

8 THE PRESIDENT: Delegate Penniman.

9 DELEGATE PENNIMAN: I take it this does not change  
10 really my response to Delegate Hardwicke's question though.  
11 It was not in any way a change of the decision made on the  
12 floor.

13 THE PRESIDENT: Delegate Hardwicke, I think to a  
14 certain extent your question and the answer by Delegate  
15 Penniman are a little at cross purposes. Let me pose a little  
16 different question and see if I can clarify it.

17 As I understand the answer which you gave which  
18 as you stated was not a direct answer to the inquiry, you  
19 were saying that the Committee on Style did not intend to  
20 change the meaning, substantive meaning, of the phrase as it  
21 was approved by the Committee of the Whole.





1 DELEGATE PENNIMAN: That is correct.

2 THE PRESIDENT: And that phrase was not merely  
3 property devoted to agricultural use but property devoted  
4 to agricultural use as prescribed by law. Therefore, when  
5 Delegate Hardwicke says that he is proceeding on the  
6 assumption or premise that the previous language permitted  
7 one and only one test, namely use, I take it you were not  
8 necessarily agreeing with that by your answer but that  
9 what you were saying is that agricultural property as  
10 defined by the General Assembly law is intended to mean the  
11 same and property devoted to agricultural use as prescribed  
12 by law. To put it another way, the addition of the phrase  
13 "as prescribed by law" to the phrase "devoted to  
14 agricultural use" did not necessarily mean that use was the  
15 sole criteria. Is this correct?

16 DELEGATE PENNIMAN: That is correct. I think  
17 in this connection that so far as our committee is con-  
18 cerned, our function is that of not changing the meaning  
19 from the floor, and I suppose in some sense a discussion of  
20 what content is otherwise would be with the substantive  
21 committee.



1 THE PRESIDENT: One further question to further  
2 amplify that. Do I understand that your committee in  
3 arriving at this conclusion considered the colloquy that  
4 occurred in the Committee of the Whole, particularly with  
5 the questions, as the Chair remembers it, which were  
6 directed to Delegate Case as to what was meant by "devoted  
7 to agricultural use"?

8 DELEGATE PENNIMAN: That is correct.

9 THE PRESIDENT: Now, Delegate Hardwicke, you may  
10 wish to pursue the question further.

11 DELEGATE HARDWICKE: Mr. Chairman of the  
12 committee, my purpose in asking these questions is that I  
13 anticipate that there will be some litigation involving this  
14 very point, and I think that we ought to clear the record  
15 as completely as we can as to the intention. Then what you  
16 are saying, it seems to me, is that there shall be still one  
17 sole test as to what agricultural property is and that one  
18 sole test is whether or not the property is devoted to  
19 agricultural use as defined by law.

20 THE PRESIDENT: Delegate Penniman.

21 DELEGATE PENNIMAN: That is right.





1 THE PRESIDENT: Delegate Hardwicke.

2 DELEGATE HARDWICKE: But the Legislature could  
3 not arbitrarily define--in other words, the definition of  
4 the use has got to be reasonable and so forth, and if that  
5 test -- if the Legislature does use a reasonable definition,  
6 a reasonable classification, then you would consider that  
7 to be agricultural property.

8 THE PRESIDENT: Delegate Penniman.

9 DELEGATE PENNIMAN: Yes, that is correct.

10 THE PRESIDENT: Delegate Henderson.

11 DELEGATE HENDERSON: I suggest that Delegate  
12 Hardwicke is putting words in the mouth of the chairman  
13 which I don't think really belong there. As I recall the  
14 colloquy, I think it was Delegate Case who referred par-  
15 ticularly to the decision of the Court of Appeals which had  
16 thrown out all of the subsidiary tests and relied upon the  
17 words in the constitutional amendment which referred to  
18 agricultural use, and the Court of Appeals said, in effect,  
19 that that was the only test but that the committee as  
20 reported on the floor here intended to overrule that Court  
21 of Appeals decision, and I suggest that the use of the word





1 "agricultural property" as defined gives a very wide  
2 discretion to the Legislature to define "agriculture" and  
3 impose many other tests besides that of use so that use no  
4 longer remains the absolute or only test.

5 THE PRESIDENT: Are there any further questions  
6 of the committee chairman?

7 Delegate Adkins.

8 DELEGATE ADKINS: I should like to pose a  
9 specific question to the chairman and ask him whether or not  
10 the language of the proposed amendment here is broad enough  
11 to permit the Legislature to define as "agricultural  
12 property" that property which is zoned either residential  
13 or industrial but, in fact, is used for a bona fide  
14 agricultural use. In other words, if the property is zoned  
15 as other than agricultural, may the Legislature still  
16 provide a definition which would permit that property to be  
17 included as agricultural?

18 THE PRESIDENT: Delegate Penniman.

19 DELEGATE PENNIMAN: I don't think that I can  
20 answer that question.

21 THE PRESIDENT: I think that is more properly a



1 question for the chairman of the committee.

2 Delegate Sherbow, can you respond to the question?

3 DELEGATE SHERBOW: Yes.

4 Zoning classifications are only one item that  
5 could be considered. The language here is meant to be as  
6 Judge Henderson has pointed out, not the Court of Appeals  
7 language based on the exact words of the constitutional  
8 amendment but here we are suggesting language which gives  
9 the State Legislature, the Bureau of Assessments and  
10 Taxation in carrying out the law a whole series of items  
11 to be considered.

12 Now, zoning would be one of them. The use to  
13 which the land is put actually would be another. For  
14 example, you could have agricultural property which has just  
15 lain there perhaps for 25 years and nothing has every been  
16 done which could be classified for agricultural purposes.  
17 At the same time you might have property that is in  
18 another area that has been zoned differently that would not  
19 be agricultural. There are, I believe, about 30 to 35  
20 different matters all of which would be hopefully taken up  
21 for consideration in determining whether or not it is





1 property that is agricultural property as defined by the  
2 General Assembly and as further redefined by the  
3 governmental body which will carry out the General  
4 Assembly's law.

5 THE PRESIDENT: Delegate Adkins.

6 DELEGATE ADKINS: I do not disagree with what  
7 the distinguished chairman says, but may I again ask him  
8 specifically whether or not the fact that property is  
9 zoned residential or industrial would prevent it from being  
10 defined under a reasonable standard set by the Legislature  
11 as agricultural property.

12 THE PRESIDENT: Delegate Sherbow.

13 DELEGATE SHERBOW: No, not in my judgment if it  
14 is in fact property that would be agricultural property  
15 that comes within the definitions. The mere fact that it is  
16 zoned one way would not be the end to its consideration and  
17 a finality. The answer is no.

18 THE PRESIDENT: Delegate Adkins.

19 DELEGATE ADKINS: I understand then the record  
20 is quite clear so far as the chairman of the Committee on  
21 State Finance and Taxation is concerned, the zoning is not



1 finally determinative, although it may be an element, of  
2 property which is agricultural property in the sense of the  
3 constitutional language used here.

4 THE PRESIDENT: Delegate Sherbow.

5 DELEGATE SHERBOW: That statement is correct.

6 THE PRESIDENT: Any other questions?

7 Delegate Hanson.

8 DELEGATE HANSON: Mr. Chairman, this may be a  
9 question of substance, but in light of Delegate Adkins'  
10 question and Delegate Sherbow's response, would this  
11 section then or could this section then be construed to make  
12 unconstitutional the kind of legislation which was intro-  
13 duced in the General Assembly this year which would have  
14 made the manner in which the land is zoned the basic  
15 criteria to determine whether or not it would be eligible  
16 for preferential assessment?

17 THE PRESIDENT: Delegate Sherbow.

18 DELEGATE SHERBOW: I take it, Delegate Hanson,  
19 when you say "would be unconstitutional," you mean would be  
20 in contradiction of this Section 6.03.

21 THE PRESIDENT: Delegate Hanson.



1 DELEGATE HANSON: Yes.

2 THE PRESIDENT: Delegate Sherbow.

3 DELEGATE SHERBOW: Are you suggesting that that  
4 law passed or was just introduced?

5 THE PRESIDENT: Delegate Hanson.

6 DELEGATE HANSON: That law was merely introduced .  
7 My question is whether the interpretation you have just  
8 placed on this section in response to Delegate Adkins would  
9 mean that such legislation if introduced and successfully  
10 enacted would be in conflict with this section.

11 THE PRESIDENT: I think it would be helpful for  
12 the record, Delegate Hanson, if you would indicate in very  
13 general terms what the legislation did to which you re-  
14 ferred.

15 DELEGATE HANSON: As I understand the legislation  
16 that was proposed, it would have made ineligible for  
17 preferential assessment as farm land, land which had been  
18 zoned for substantially higher densities.

19 THE PRESIDENT: All right. Then to rephrase  
20 your question, I take it that what you are asking is would  
21 a law enacted by the Legislature which provided that land





1       zoned for residential or higher than agricultural use would  
2       not be considered agricultural property be valid under  
3       this section.

4               DELEGATE SHERBOW: I can only answer it this  
5       way. That if the Legislature defined "agricultural  
6       property" as property which is not zoned for residential  
7       or for industrial purposes, but could only include property  
8       which is zoned for agricultural use, then that might be  
9       considered as a legal classification. But I am not ready  
10      to go completely out on a limb and say that that by itself  
11      would be the test.

12             In my own judgment I believe that the Court of  
13      Appeals might consider other factors in determining whether  
14      that is so, but if the General Assembly said that in order  
15      for it to be within this classification it must be zoned  
16      agricultural, then you got some litigation where the Court  
17      of Appeals might sustain that, but I don't know what you  
18      do in some jurisdictions which have various classifications  
19      where farm land has partly residential, partly agricultural  
20      and partly industrial, but it is all being used as one farm.

21             THE PRESIDENT: Any other questions?



1 Delegate Marion.

2 DELEGATE MARION: Chairman Penniman, if I could  
3 direct your attention to page 4, Section 6.11, I believe  
4 that in preparing the corrected copy with the words  
5 italicized in lines 32 and 33, that the corrected copy  
6 fails to show the deletion of three words in line 34,  
7 "the budget and". Is it not correct that those words should  
8 be deleted?

9 THE PRESIDENT: Delegate Penniman.

10 DELEGATE PENNIMAN: That is correct. On line 34,  
11 "the budget and", so that it would read "officer of each  
12 house. A budget bill."

13 THE PRESIDENT: Is there any objection to  
14 modifying the amendment suggested by the committee so that  
15 in line 34 on page 4 the words "the budget and" would be  
16 shown as stricken?

17 There apparently is no objection. The modifica-  
18 tion will be considered as made. The words "the budget  
19 and" in lines 34, page 4, should be shown as stricken.

20 Any other questions?

21 Apparently not.





1 Delegate Clagett.

2 DELEGATE CLAGETT: Mr. Chairman, I am somewhat  
3 disturbed by the colloquy which took place with respect to  
4 Section 6.03 and the answers given by Chairman Sherbow.  
5 I had understood that with respect to this section the change  
6 of phraseology to "agricultural property" as compared to  
7 "devoted to agricultural use" was not a change of substance,  
8 but the colloquy would indicate that it was in fact a  
9 change of substance.

10 THE PRESIDENT: Delegate Clagett, I think you  
11 misinterpreted the colloquy. I think the colloquy was  
12 reasonably clear that what the chairman of the Committee on  
13 Style was saying was that as the committee understands the  
14 language previously adopted which was not merely the phrase  
15 devoted to "agricultural use" but the whole phrase "devoted  
16 to agricultural use as prescribed by law", that the  
17 colloquy that took place when that was discussed in the  
18 Committee of the Whole indicated that that language was  
19 intended to confer upon the General Assembly the power to  
20 define the exclusion and not limit it solely to the use of  
21 the property as agricultural property, and in that context



1 he was saying that there was no change in substance.

2 Delegate Clagett.

3 DELEGATE CLAGETT: Then, Delegate Penniman, I  
4 understand that the intent of your committee is that  
5 agricultural property shall include agricultural use and not  
6 be defined simply by the way in which the property happens  
7 to be zoned.

8 THE PRESIDENT: Delegate Penniman.

9 DELEGATE PENNIMAN: Again I would rather not get  
10 involved in the content in that sense, Delegate Clagett.  
11 We had the proposal within our committee to make it as  
12 defined by the General Assembly by law. I had this checked  
13 with the members of the Committee on State Finance and  
14 Taxation, and I was assured this created no change in the  
15 meaning of the words and of the discussion here in the  
16 Committee of the Whole.

17 THE PRESIDENT: Delegate Clagett, I think Delegate  
18 Sherbow, as chairman of the Committee on State Finance and  
19 Taxation has indicated the intention of the language in the  
20 section before it was changed by the Committee on Style,  
21 and the language as changed by the Committee on Style is the





1 same and that this language would permit the General  
2 Assembly to provide that use for agricultural purposes was  
3 one of the criteria for determining the exclusion and that  
4 zoning would not necessarily control. I think he stated  
5 that twice.

6 Delegate Clagett.

7 DELEGATE CLAGETT: Mr. Chairman, I think we are  
8 close, but we are not quite at the point yet. I want to be  
9 sure by the use of the phraseology "agricultural property,"  
10 bona fide agricultural use is not excluded and cannot be  
11 excluded by the mere zoning of the property.

12 THE PRESIDENT: I think that the chairman of the  
13 committee has made that clear but you can ask him again.

14 Delegate Sherbow, did you understand the last  
15 comment?

16 DELEGATE SHERBOW: Yes, and I agree with your  
17 definition and what you said. I made it as clear as I know  
18 how. If they pass a law and say that the only criterion is  
19 the way it is zoned, then I would say you have a case on your  
20 hands for the Court of Appeals to determine whether that is  
21 reasonable. I can't answer what would happen if the





1 Legislature would define it only. How did you zone it? I  
2 doubt that they would.

3 THE PRESIDENT: Delegate Clagett.

4 DELEGATE CLAGETT: May I ask you a question?  
5 Where we use the phraseology "devoted to agricultural use",  
6 the reading of that language and understanding the words in  
7 their natural context and meaning, would they not include  
8 "and requiring agricultural use" as being one of the  
9 criteria to determine such use when defined by the General  
10 Assembly?

11 THE PRESIDENT: Delegate Sherbow.

12 DELEGATE SHERBOW: Yes.

13 THE PRESIDENT: Delegate Clagett.

14 DELEGATE CLAGETT: Shifting to the phrase  
15 "agricultural property," do I likewise understand that that  
16 phrase would include as a definitive criteria agricultural  
17 or bona fide agricultural use and could not be excluded by  
18 the mere paper zoning categorization?

19 THE PRESIDENT: Delegate Sherbow.

20 DELEGATE SHERBOW: I think that is correct.

21 THE PRESIDENT: Any other questions?



1 Delegate Willoner.

2 DELEGATE WILLONER: Mr. Chairman, a few minutes  
3 ago I guess by unanimous consent we struck the words "the  
4 budget and" out of Section 6.11. As I remember the colloquy  
5 and my understanding of Section 6.10 and 6.11 the budget and  
6 the budget bill are two different things. The budget is what  
7 is prepared in the form as may be established or directed  
8 by the Governor and the budget bill is the form of the bill  
9 as it goes through the two houses. It would obviously  
10 mean a change in substance if the Governor no longer had to  
11 present the budget to --

12 THE PRESIDENT: Delegate Willoner, I think you  
13 misconstrued both what has been done thus far and what the  
14 intent of the committee is. If you will take your copy and  
15 follow with me a moment, I think I can point it out. The  
16 change made is not a change that is agreed to by unanimous  
17 consent. The only thing that consent has been given to is  
18 to correct the copy to reflect probably what the committee  
19 intends. This will still be before you if the Convention  
20 doesn't agree. This was merely an inadvertent omission.  
21 The words were intended to be stricken.





1           Now, to answer the second part of your question,  
2 if you will read the sentence as it would be amended, I  
3 think you would see the reason for the change because it  
4 would read "At the time the Governor submits the budget to  
5 the General Assembly, he shall deliver to the Presiding  
6 Officer of each house a budget bill," so it does not  
7 contemplate both.

8           Does that answer your question?

9           DELEGATE WILLONER: Yes.

10          THE PRESIDENT: Any further questions?

11          Delegate Bamberger.

12          DELEGATE BAMBERGER: If I may return to Section  
13 6.03 and the problem of farmland assessments, as I under-  
14 stand Section 6.03, when it was adopted on first reading,  
15 it provided the assessment for property which was devoted  
16 to agricultural use as agricultural use would be defined by  
17 the General Assembly.

18          THE PRESIDENT: Delegate Bamberger, may the Chair  
19 cut across this because I think this is repeating much the  
20 same thing that we have been over, and I don't think we can  
21 gain anything by it. What you are saying is absolutely true



1 as to the language there. What has been stated by the  
2 committee is that that language was considered modified  
3 or explained by the colloquy which took place in the  
4 Committee of the Whole which colloquy indicated that it was  
5 intended by that phrase not to restrict the Legislature  
6 solely to agricultural use but to any of the criteria which  
7 had been mentioned and to overrule the case in the Court of  
8 Appeals which held otherwise. So that the committee in  
9 making the change has endeavored to give effect to the  
10 phrase not merely as it was written but as it was ex-  
11 plained.

12 Now this leaves open for the Convention on second  
13 reading the question of whether it desires to go along with  
14 that construction. It is clear that as it is intended now  
15 it would give the General Assembly much broader authority  
16 in defining the exemption of agricultural property. It  
17 would not be limited to use.

18 Delegate Bamberger.

19 DELEGATE BAMBERGER: So that we can all be  
20 assured of this, could either Delegate Penniman or the  
21 Chair tell me if those pages of the transcript of that



1 colloquy have been reproduced and if so what they are.

2 THE PRESIDENT: I can't answer because I don't  
3 recall the date, but I suggest to you that so long as the  
4 intent here is clear, it is immaterial what was said before.  
5 If it is not what the Convention wants now, they should  
6 change it now regardless of the discussion that took place  
7 here before.

8 DELEGATE BAMBERGER: The pages have already been  
9 transcribed.

10 THE PRESIDENT: Do you happen to know what the  
11 reference is?

12 DELEGATE SHERBOW: No, we do not, but Mr. Walker  
13 Lewis has read them.

14 THE PRESIDENT: Delegate Hanson.

15 DELEGATE HANSON: Mr. Hanson, I think those  
16 pages begin at about 7080 and from there on, on the 4th and  
17 5th of December.

18 THE PRESIDENT: Thank you very much.

19 Any other questions?

20 Apparently not.

21 Delegate Penniman, if you get your seat quickly





1 enough, that may be the end of them.

2 Are there any amendments with respect to the  
3 style amendments as to Section 6.01?

4 The Chair hears none. Any amendments as to style  
5 with respect to Section 6.02?

6 The Chair hears none. Any amendments as to  
7 style with respect to Section 6.03?

8 The Chair hears none. Any amendments as to  
9 style with respect to Section 6.04?

10 The Chair hears none.

11 Any amendments as to style with respect to  
12 Section 6.05? The Chair hears none.

13 Any as to Section 6.06? The Chair hears none.

14 Any as to Section 6.07? The Chair hears none.

15 Any as to Section 6.08? The Chair hears none.

16 Any as to Section 6.09? As to Section 6.10? As  
17 to Section 6.11? Or as to Section 6.15?

18 Any amendment as to style with respect to  
19 Section 6.13? Or Section 6.14? Or Section 6.15? Or  
20 Section 6.16? Or Section 6.17?

21 I am sorry, the unnumbered section beginning on



1 line 390, page 6. The Chair hears none.

2 Delegate Kosakowski, is this just on style?

3 DELEGATE KOSAKOWSKI: Because I have amendments on  
4 the lottery provision.

5 THE PRESIDENT: You will have an opportunity

6 Apparently there are no amendments as to style.

7 The question now arises on the adoption of the amendments  
8 proposed by the Committee on Style with respect to Committee  
9 Recommendation SF-2, 3, 4, and 5.

10 Are you ready for the question? The Clerk will  
11 ring the quorum bell.

12 The question arises on the adoption of the  
13 amendments proposed of the Committee on Style with respect  
14 to Committee Recommendation SF-2, SF-3, SF-4, SF-5, the  
15 amendments being submitted by the Style Committee's report  
16 S&D-10.

17 A vote Aye is a vote in favor of the adoption  
18 of the committee amendments. A vote No is a vote against.  
19 Cast your votes.

20 (Whereupon, a rollcall vote was taken.)

21 THE PRESIDENT: Has every delegate voted? Does





1 any delegate desire to change his vote?

2 The Clerk will record the vote.

3 There being 100 votes in the affirmative and  
4 6 in the negative, the motion is carried and the amendments  
5 submitted by the Committee on Style are adopted.

6 Committee Recommendation SF-2, 3, 4, and 5 is  
7 now open to amendment.

8 Are there any amendments as to 6.01?

9 The Chair hears none as to 6.01.

10 Are there any amendments as to Section 6.02?

11 The Chair hears none.

12 Are there any amendments as to Section 6.03?

13 Delegate Hanson.

14 DELEGATE HANSON: I have an amendment to Section  
15 6.03 which was drafted some time this afternoon. I understand  
16 it is presently being printed unless you have a copy of it.

17 THE PRESIDENT: Was it given to Mr. Benson?

18 DELEGATE HANSON: Yes.

19 THE PRESIDENT: Before dinner?

20 DELEGATE HANSON: Yes.

21 THE PRESIDENT: Is there any objection to



1 considering, although not printed, the amendment proposed  
2 by Delegates Hanson, Sickles, Beatrice Maurer, and Macdonald  
3 that would strike out of Section 6.03 in line 12 the words  
4 "agricultural property" and insert in lieu thereof  
5 "property owned and operated as farms by bona fide farmers"?

6 The amendment is in the print shop but isn't  
7 here. Is there any objection to considering it notwith-  
8 standing the fact it is not printed?

9 The Chair hears none. This will be Amendment  
10 No. 1.

11 THE PRESIDENT: Delegate Barrick.

12 DELEGATE BARRICK: I would like to offer an  
13 amendment in substitution of that language that would leave  
14 the language as it was originally stated. Would that be  
15 proper at this time?

16 THE PRESIDENT: In view of the statement you  
17 made to me at the rostrum a few moments ago, I don't think  
18 you mean the amendment exactly as you stated it to restore  
19 the language to exactly what it was because in view of the  
20 colloquy which has occurred, that would not change the  
21 meaning or it would not be intended to. If I understand



1 you, you would want to provide specifically that the class  
2 was to be limited to property devoted to agricultural use,  
3 and I think you would have to change your language a little  
4 bit more than merely in the manner that you suggested. It  
5 could, for instance, say which classes shall include  
6 property devoted to agricultural use without including the  
7 other words "as prescribed by law." Is that what you in-  
8 tend?

9 DELEGATE BARRICK: Mr. President, you have been  
10 very successful in helping my law associate, Delegate  
11 Storm, and I am certainly willing to go along with his  
12 success and your successes.

13 THE PRESIDENT: I just want to make sure I under-  
14 stand what your intent is.

15 DELEGATE BARRICK: That is what I intended.

16 THE PRESIDENT: All right.

17 Delegate Hanson, did you understand the proposed  
18 amendment?

19 DELEGATE HANSON: I am not sure, Mr. President.

20 THE PRESIDENT: Let me, if I may, state the two  
21 so that I can understand.





1 Under your amendment, lines 12 and 14 would read  
2 "which classes shall include property owned and operated  
3 as farms by bona fide farmers."

4 As defined by the General Assembly by law.

5 The suggestion for the amendment by Delegate  
6 Barrick, lines 12 to 14, would read "which classes shall  
7 include property devoted to agricultural use" period. My  
8 question is: Would you be willing to accept his amendment?  
9 If not, I will put his amendment as a substitute for yours.  
10 If it fails, then your amendment will be put.

11 DELEGATE HANSON: Mr. President, I could under  
12 no circumstances accept the amendment.

13 THE PRESIDENT: Very well.

14 DELEGATE HANSON: I assume you are kidding.

15 THE PRESIDENT: Very well.

16 Delegate Barrick submits Amendment 1-A as a  
17 substitute for Amendemnt 1 which would provide that in  
18 effect lines 12 to 14 would read "which classes shall in-  
19 clude property devoted to agricultural use" period.

20 Is there a second to that motion?

21 (The motion was duly seconded.)



1           THE PRESIDENT: The question would first arise  
2 on that motion 1-A as a substitute for Delegate Hanson's  
3 motion. If it passes, then you would vote on the adoption  
4 of that amendment. If it fails, you would then have the  
5 opportunity to vote on Delegate Hanson's amendment.

6           Amendment 1-A proposed by Delegate Barrick, duly  
7 seconded, the Chair recognizes Delegate Barrick.

8           DELEGATE BARRICK: Mr. President and members of  
9 the Convention, it appears to me that the language was quite  
10 proper the way it was formerly drafted, that we understand  
11 what we were doing, that there was a class to provide for  
12 land that was devoted for agricultural use, and it seems to  
13 me that we have overcomplicated the subject. Our intent was  
14 clear at the beginning. I would like to have it go back to  
15 the original language.

16          THE PRESIDENT: Delegate Hanson.

17          DELEGATE HANSON: Mr. President, I ask for the  
18 indulgence of the Convention to speak for a little longer in  
19 opposition to this substitution than Delegate Barrick has  
20 spoken in presenting it. I would hope in this rare and  
21 harmonious instance that I would have the support of the





1 chairman of the Committee on State Finance and Taxation as  
2 well. Because I think the Barrick amendment does violence  
3 not only to the amendment that I propose but to the in-  
4 tention of the State Finance and Taxation Committee as well  
5 because what the Barrick amendment does is to leave the  
6 state in exactly the untenable position in which it now  
7 finds itself under the rule of the Alsop case where the only  
8 test that could be used in determining whether or not to  
9 grant preferential assessment to land which ostensibly is  
10 farmland is whether or not there is a cow on it or a tree  
11 on it or some other farm implement or farm activity.

12 Now, I think this is the very situation which  
13 the committee itself sought to avoid. I would argue that  
14 they have not done that very well, but it would create or  
15 continue a most serious situation.

16 I might say in defending my own amendment at the  
17 same time, with the hope that I would not need to speak on it  
18 again, that the discussion which we have had again this  
19 evening as well as the protracted discussion in the Committee  
20 of the Whole on the meaning of this clause which mandates to  
21 the General Assembly the requirement that if it establishes



1 classifications of property that one class shall be  
2 agricultural property devoted to agriculture use only amply  
3 illustrates the fact that this is a legislative matter and  
4 not a constitutional matter. However strongly I feel about  
5 this, I believe that this Convention by the action of the  
6 Committee of the Whole has already made up its mind that it  
7 is going to give this particular tax boondoggle and that  
8 in such a situation, although I don't like it, I feel con-  
9 strained against offering an amendment to do again what was  
10 defeated in the Committee of the Whole. Therefore, I have  
11 proposed an amendment which I believe makes it possible for  
12 this Convention to do what the Finance Committee says it  
13 intends that we do and what I believe the Committee of the  
14 Whole intended to do.

15 To make my point, I think it is necessary to refer  
16 you to the record of the debate on this subject that took  
17 place in the Committee of the Whole in which the spokesman  
18 for the committee at that time said, and I quote, "I want  
19 to make it perfectly clear on the record that the intention  
20 of this provision is to permit the definitional power of the  
21 General Assembly to control what is or what is not a bona





1       fide farm."

2               At another place the spokesman said, "This en-  
3       visages the General Assembly passing a definitional law  
4       which will either itself define what a farm is or is not or  
5       delegate authority to make that definition to the Department  
6       of Revenue or Assessments and Taxation."

7               We then got into a discussion of the Alsop case  
8       and the spokesman said it was the intention of the committee  
9       to change this and to give the Legislature or the Department  
10      of Assessments and Taxation the right to say what is a farm.  
11      In the colloquy that ensued beginning at pages 7115 the  
12      question was asked about the ability to define agricultural  
13      use and the reply was that the sum total of it is that the  
14      administrator of the department says that it can be done.  
15      The committee went on to argue that a persuasive case had  
16      been made for allowing this particular preferential assess-  
17      ment for farmers, but we got then into what I think is the  
18      crux of the issue.

19              In answer to questions from Delegate Henderson  
20      and the Chairman, the committee spokesman at that point was  
21      asked by the chairman the following question: If you had





1 two pieces of property in which the exact situations were  
2 identical in all other respects except that the owner of  
3 one was one whose usual vocation was that of a farmer whereas  
4 in the other the owner was a person whose vocation was other  
5 than a farmer, would the Legislature under 8.03 be justified  
6 in authorizing a separate classification?"

7 And on page 7203 the committee spokesman said,  
8 "I would argue most strenuously that it could not."

9 Now, if our objective is to help the bona fide  
10 farmer, I say let us help the bona fide farmer. Let us not  
11 help the land speculator. Let us not help the person who  
12 is buying up farms and as a matter of fact is forcing  
13 farming prematurely into decline in this state because the  
14 tax situation permits him to buy that farm far ahead of the  
15 time when he would normally buy it because under the tax  
16 law he can hold it until it is really ripe for development  
17 and for purchase which is the time that he ought to be buying  
18 the farm so what happens under the law as it would stand  
19 now or under the Barrick amendment or I think even under  
20 the committee proposal, we not only lose the taxes but we  
21 also lose the farms, so we are not achieving our objective.



1 I feel very strongly, too, to do justice to the  
2 farmer if we must, do justice to the farmer if we can, but  
3 do justice to the farmer and not those who would masquerade  
4 as farmers and in the name of agriculture perpetrate an  
5 unmitigated raid on the treasuries of the urbanized counties  
6 of this state.

7 DELEGATE ADKINS: Mr. President.

8 THE PRESIDENT: Delegate Sherbow.

9 DELEGATE SHERBOW: I would like to inquire if  
10 Delegate Barrick's substitute amendment 1-A includes as  
11 prescribed by law --

12 THE PRESIDENT: It does not.

13 DELEGATE BARRICK: I would like it to, Mr.  
14 Chairman.

15 THE PRESIDENT: That is the question I asked you  
16 before, Delegate Barrick, and if you include that language  
17 then I have a real problem as to whether your amendment is  
18 in order because on the basis of the colloquy before it would  
19 have exactly the same meaning. It was only a change as to  
20 style and I had understood you to say that you did not want  
21 to have it have the same meaning as before.





1           DELEGATE BARRICK: That was not my intention.  
2 My intention was to put the language back in its original  
3 form. Line 11, I am not concerned about that, but lines 12,  
4 13, and 14 I intended to go back as they were originally  
5 written.

6           THE PRESIDENT: Well, in view of the misunder-  
7 standing, I will permit the amendment, although it is clearly  
8 out of order. You had asked me the question before and I  
9 had indicated that it was not an amendment as to style. In  
10 the form you now put it it would be purely an amendment  
11 as to style but so that we can move on, the Amendment 1-A,  
12 as I understand it then, is that you would substitute for  
13 the words -- include in line 12 the words "property devoted  
14 to agricultural use as prescribed or as defined" which is  
15 your choice.

16           DELEGATE BARRICK: As prescribed by law.

17           THE PRESIDENT: As prescribed by law.

18           Delegate Sherbow.

19           DELEGATE SHERBOW: Mr. Chairman, with respect  
20 to Delegate Barrick's amendment, I can't have any objection  
21 to it because it is exactly the way the committee had



1 written it originally. We have had enough colloquy on the  
2 subject to indicate that the committee doesn't feel that  
3 there is any difference between the two. Now, if we are  
4 going to have a vote on that one, that is one thing, and  
5 then I am ready to go on to answer.

6 THE PRESIDENT: The Chair suggests to you that  
7 the statement made by the chairman of the Committee on  
8 Style was that while no change in substance was intended,  
9 the language that is now suggested by Delegate Barrick  
10 which was the language used prior did not carry out the  
11 intent of the Committee of the Whole as indicated in the  
12 colloquy so that what we would be doing would be going right  
13 back to where we were before and having language which the  
14 Committee on Style does not think is carrying out the  
15 intent indicated on the floor.

16 For what purpose does Delegate Gleason rise?

17 DELEGATE GLEASON: Mr. Chairman, it is a little  
18 difficult. I can follow one printed amendment, but when we  
19 are dealing with one unprinted amendment which is a sub-  
20 stitute for another unprinted amendment I am afraid I would  
21 fall off the log. I wish we could get at least the Hanson



1 amendment. I follow the amendment of Delegate Barrick. As  
2 long as this is a substitute, I think we ought to have the  
3 printed copy before us.

4 THE PRESIDENT: The Chair quite agrees it would  
5 be very helpful to have the amendment printed, and if the  
6 policy had been adhered to strictly we would not have  
7 accepted either amendment because they were not filed on  
8 time. This is second reading and we have to make time and  
9 sometimes we have to put up with conditions that are not  
10 ideal. I think you can keep in mind the two amendments if  
11 you will let me restate them to you.

12 The lines involved are lines 12, 13, and 14 on  
13 page 2. Under the Hanson amendment those lines would read  
14 as follows: "which classes shall include property owned and  
15 operated as farms by bona fide farmers as defined by the  
16 General Assembly by law." That is the Hanson amendment,  
17 the last three lines would read: "which classes shall  
18 include property owned and operated as farms by bona fide  
19 farmers as defined by the General Assembly by law."

20 The amendment offered by Delegate Barrick would  
21 for those last three lines read as follows: "which classes





1 shall include property devoted to agricultural use as  
2 prescribed by law."

3 The essential difference is in the center phrase  
4 in the Hanson amendment, the phrase is property owned and  
5 operated as farms by bona fide farmers. In the Barrick  
6 amendment it is property devoted to Agricultural use.

7 There are the essential differences.

8 Do you have a further question, Delegate Hanson?

9 DELEGATE HANSON: Yes, did I understand the  
10 chairman of the committee to indicate that there was  
11 absolutely no difference between the Barrick amendment and  
12 the Committee on Style's recommendation here?

13 THE PRESIDENT: I will give Delegate Sherbow the  
14 floor and he will state the position of the committee.

15 Delegate Sherbow.

16 DELEGATE SHERBOW: Delegate Gleason, Delegate  
17 Case, who is ill, when this was presented to him and to me  
18 by the Committee on Style and together with Mr. Walker Lewis,  
19 we went over it very carefully and our view that there is  
20 no difference between them. I told Delegate Penniman that  
21 the language that they used was clearer than the language



1 that we had but, in substance, there was no difference  
2 between them. I still do not think that there is any  
3 substantive difference between them.

4 THE PRESIDENT: Now, Delegate Sherbow, so that  
5 the question will be abundantly clear before Delegate  
6 Gleason answers the question, let me ask you two questions:  
7 In the language as originally written as now included in  
8 the Barrick amendment, it is my understanding that it is the  
9 position of the Chair that the General Assembly could  
10 prescribe by law criteria for determining the class other  
11 than agricultural use. Is that correct, sir?

12 DELEGATE SHERBOW: Yes, sir.

13 THE PRESIDENT: Delegate Sherbow?

14 DELEGATE SHERBOW: Yes, sir.

15 THE PRESIDENT: And it is also the committee's  
16 position that if the language is as submitted by the  
17 Committee on Style, the General Assembly in defining  
18 agricultural property could define that as property devoted  
19 to agricultural use and could also provide other criteria,  
20 is that correct, sir?

21 DELEGATE SHERBOW: Yes, sir.





1 THE PRESIDENT: Now, Delegate Gleason, do you  
2 have a question?

3 DELEGATE GLEASON: I was about to make a point  
4 of order, Mr. President, but under your definition, which  
5 is different than the chairman's, I can't.

6 THE PRESIDENT: Delegate Adkins.

7 DELEGATE ADKINS: May I ask a question of Delegate  
8 Hanson?

9 THE PRESIDENT: Do you take the floor to yield  
10 to a question?

11 DELEGATE ADKINS: Yes, if I may ask one of you.

12 THE PRESIDENT: Delegate Adkins.

13 DELEGATE ADKINS: When you use the words "owned  
14 and operated," you do not necessarily imply that they need to  
15 be owned and operated by the same person.

16 THE PRESIDENT: Delegate Hanson.

17 DELEGATE HANSON: That is correct.

18 THE PRESIDENT: Delegate Adkins.

19 DELEGATE ADKINS: In other words, they may be  
20 owned by one farmer and operated by another but still  
21 qualify for the exemption.



1 THE PRESIDENT: Delegate Hanson.

2 DELEGATE HANSON: This is the way that I would  
3 construe it, yes.

4 THE PRESIDENT: Delegate Adkins.

5 DELEGATE ADKINS: My second question is do you  
6 interpret the term "farmer" to mean a corporate farmer as  
7 well as an individual farmer.

8 THE PRESIDENT: Delegate Hanson.

9 DELEGATE ADKINS: I hadn't made that kind of an  
10 interpretation inasmuch as I had been assured by the  
11 spokesmen on State Finance and Taxation that it is not only  
12 easy to define agriculture but abundantly easy to define  
13 farmer. I would be willing to leave this to the wisdom of  
14 the Legislature and the courts.

15 DELEGATE ADKINS: I think it is quite clear from  
16 this colloquy today that it is not easy to define anything  
17 in this area. Therefore I tried to get the sponsor to  
18 indicate what his intentions were.

19 My second question is, What do you consider to  
20 be a form for constitutional purposes?

21 THE PRESIDENT: Delegate Hanson.



1 DELEGATE HANSON: For constitutional purposes I  
2 would consider a farm to be those things that are defined as  
3 a farm by the General Assembly just as the State Finance  
4 Committee assumes that agriculture will be what the  
5 Legislature defines agriculture to be. I think that  
6 Delegate Adkins in his question is making for me the same  
7 point that I made earlier, that we are dealing here with a  
8 legislative matter and not a constitutional matter.

9 THE PRESIDENT: Delegate Adkins.

10 DELEGATE ADKINS: Precisely the point, and there-  
11 fore I would suggest to you that what you are trying to do  
12 is to write the legislation in the Constitution when you  
13 use words such as "farm," "operate," and "bona fide" without  
14 definition, is it not true, since this is a question --

15 THE PRESIDENT: I wonder if you were reading  
16 my mind on that, Delegate Adkins.

17 DELEGATE ADKINS: I have been here long enough  
18 so that I try to, Mr. President. Is it not true that you are  
19 not writing constitutional language but trying to legislate?

20 THE PRESIDENT: Delegate Hanson.

21 DELEGATE HANSON: Delegate Adkins, I am just a





1 country boy myself and it has occurred to me that the  
2 Committee on State Finance and Taxation and the Committee of  
3 the Whole have already made the decision that we are going  
4 to legislate in this Constitution in this particular area  
5 by deciding what the only mandated classification of  
6 property will be, and they have given elaborate rationale  
7 in their committee report and in an explanation on the floor  
8 as to what the objective of this language was, and it  
9 seemed to me that there was a serious contradiction in  
10 their explanation of what the objective was. In one case  
11 they said their objective was to help the bona fide farmer  
12 but not the speculator, and in another place they said there  
13 would not be a reasonable distinction to classify one farm  
14 as agricultural use when its owner was a farmer and classify  
15 the adjoining farm as something else when the owner was not  
16 a farmer but might in some cases be a land speculator. His  
17 objective in the use of the land was not agriculture but  
18 otherwise, so it occurred to me if we were going to  
19 legislate anyway we should at least attempt to legislate to  
20 achieve our objective.

21 THE PRESIDENT: Delegate Adkins.



1 DELEGATE ADKINS: Was that an answer to my  
2 question?

3 (Laughter.)

4 THE PRESIDENT: Delegate Hanson, this is your  
5 second speech. If you have anything more to say, this is  
6 your last opportunity.

7 (Applause.)

8 DELEGATE HANSON: I am only responding to the  
9 question, Mr. President.

10 THE PRESIDENT: Whether that was an independent  
11 speech or an answer to the same, this is your last  
12 opportunity.

13 DELEGATE HANSON: It was an answer to the question  
14 and a statement about some other things that I am sure  
15 Delegate Adkins was troubled about, and I wanted to answer  
16 him.

17 DELEGATE MITCHELL: Will Delegate Sherbow yield  
18 to a question?

19 THE PRESIDENT: Delegate Sherbow.

20 DELEGATE SHERBOW: Certainly.

21 THE PRESIDENT: Delegate Mitchell.





1 DELEGATE MITCHELL: Is the language used by  
2 Delegate Hanson "property owned and operated as farms by  
3 bona fide farmers," is that expressive of the intention of  
4 the committee when it used the words "agricultural  
5 property"?

6 THE PRESIDENT: Delegate Sherbow.

7 DELEGATE SHERBOW: No, because there are enough  
8 infirmities in the statement that is in Delegate Hanson's  
9 amendment to make the answer no. I was prepared to go on  
10 to debate this issue and the speeches all followed the  
11 question. When that time comes, I am ready to take that up  
12 so that whatever needs clarification we will try to give it  
13 to you.

14 THE PRESIDENT: Delegate Mitchell.

15 DELEGATE MITCHELL: As I listned to the prior  
16 debate, I thought it was the intention of the committee to  
17 help the farmers because of the decreasing use of the land  
18 in the state by the farmers and this was to encourage the  
19 farmers.

20 THE PRESIDENT: Delegate Sherbow.

21 DELEGATE SHERBOW: That statement is absolutely



1 correct. Now if I may answer it, let me make my debating  
2 statement now. When we had the discussion before our  
3 committee by the farmers, and there were many who came to  
4 this meeting, they pointed out what their problem was and  
5 their problem is simply this. They are caught in a bind.  
6 They are operating in an area where it is difficult to make  
7 more than a marginal living if their land is assessed in  
8 accordance with other adjoining property, not adjoining but  
9 property that is rapidly being urbanized, they must give up  
10 their farms. The more who give up their farms because of  
11 high taxes it means then that others are being forced out of  
12 farming, the farming population and uses that are agricultur-  
13 al drop more quickly, the land falls into the hands of the  
14 speculators because they cannot pay the taxes.

15 Now, what is the relief that they ask for? They  
16 had an amendment to the Constitution prepared. That amend-  
17 ment was adopted by a gigantic vote, by the people of  
18 Maryland, just a few years ago. When this amendment was  
19 adopted it used language which the Court of Appeals in  
20 interpreting that particular language said in effect: It  
21 is agricultural use under the definition within that





1 Constitution. Now we are here drafting a new Constitution,  
2 and we are caught between these two poles, the one is the  
3 farmer who wants to stay on his farm who is beset by all of  
4 these problems. On the other hand we have the land  
5 speculator. You find him in the counties near Washington  
6 where they are buying up this property and holding it for  
7 what they call farms. Sometimes they don't even go through  
8 the attempt to make it look like a farm or act like a farm,  
9 but they are getting, under the benefit of that decision,  
10 the agricultural assessment.

11 Now, what we are trying to do is this. We don't  
12 believe one definition is enough. The State Bureau of  
13 Assessments has set up criteria which at this moment number  
14 about 31. It is not as the Hanson amendment would give you  
15 "property owned and operated." Sometimes the property is  
16 owned by a bona fide farmer and there is a death, and it  
17 may be three years while the estate is being settled; nobody  
18 is operating the farm and under his amendment it falls into  
19 the other classification and the farming assessment is gone.

20 What is a bona fide farmer? This requires  
21 definition. In order to give it a definition, the Bureau of





1 Assessments has set up a whole series of classification.  
2 What was the property used for? What was it used for? How  
3 much fertilizer was used? Who is tilling the property?  
4 How much money is being expended? Is this a part-time job?  
5 Is this a main avocation? All of these enter into it. You  
6 can't write all this kind of legislation in the Constitution  
7 and do it correctly. This is what the Hanson amendment  
8 suggests.

9 What we are suggesting is that it be this  
10 classification and that the classification be set up by the  
11 Legislature. The farmers on the Eastern Shore say you either  
12 protect us or we will have to go out of the farming  
13 business. The bona fide farmer in the big county says if  
14 you don't protect us, we will have to sell it to these land  
15 speculators.

16 We think the way to do it is to do just these  
17 things: One, you have the classification. It must be  
18 agricultural. Secondly, the details must be set by the  
19 General Assembly and then, thirdly, when the questions arise,  
20 the courts will determine the bona fideness of the  
21 interpretation by the administrative agency and the result



1 will be that you will come as close to breaking out and  
2 killing what I thought ought to be destroyed and that is a  
3 bonanza or a break for the speculator, but you don't want  
4 to in attempting to kill what he is doing, kill the farmers  
5 in Maryland and therefore my view is that we ought to vote  
6 against the two amendments, first the Barrick amendment,  
7 secondly we ought to vote against the Hanson amendment.

8 What the committee has got in here comes as close,  
9 with the help of the Legislature and the State Bureau of  
10 Assessments which is going to administer this, to getting  
11 at what is a proper classification.

12 The bona fide farmer will be protected but he  
13 won't be protected just by somebody calling him a farmer.  
14 He will have to go through a whole lot to prove it.

15 THE PRESIDENT: Delegate Mitchell.

16 DELEGATE MITCHELL: Cannot the General Assembly  
17 just as easily define "bona fide farmer" as it can  
18 "agricultural property"?

19 THE PRESIDENT: Delegate Sherbow.

20 DELEGATE SHERBOW: It can and it should and that  
21 is what we are saying, but if you put "bona fide farmer" in





1 the Constitution you have defined it, not the Legislature.  
2 You haven't left it to them for definition.

3 THE PRESIDENT: Delegate Mitchell.

4 DELEGATE MITCHELL: You have already said that it  
5 is the intention of the committee to protect those who act  
6 like farmers, who are and act like farmers. It seems to me  
7 that the General Assembly -- here we have a constitutional  
8 directive carrying out the intention of your committee to  
9 protect the bona fide farmers and therefore couldn't the  
10 Assembly define what a bona fide farmer is, carrying forth  
11 more clearly your constitutional directive?

12 THE PRESIDENT: Delegate Sherbow.

13 DELEGATE SHERBOW: If you say in the Constitution  
14 "by a bona fide farmer," you have made the definition.  
15 There isn't any definition for the Legislature to make  
16 thereafter. If you say for agricultural use as we have it  
17 here or agricultural property as defined by the General  
18 Assembly, Delegate Mitchell, what is happening here is what  
19 always happens when you try to do the work on the floor  
20 that two committees have labored with for weeks and months  
21 trying to get the language which will fit the problems.



1 Now, this amendment of Delegate Hanson's we say to you will  
2 not accomplish what will protect the bona fide, real honest-  
3 to-goodness farmers, not those who act like farmers but  
4 those who are actually farmers because you see there is  
5 more to it than just appearance and all kinds of problems  
6 arise and if you could do it as simply as these three lines  
7 say, then I am sure the State Bureau of Assessment and  
8 Taxation certainly must be wasting everybody's time  
9 figuring out 29 to 59 criteria all of which enter into the  
10 picture of a "bona fide farmer."

11 THE PRESIDENT: Delegate Mitchell, make it just  
12 one question please.

13 DELEGATE MITCHELL: Just one more question. I  
14 understand that is the reason you wanted to spell out  
15 agricultural property in the Constitution in order to make  
16 it clear to the Legislature what you meant.

17 THE PRESIDENT: Delegate Sherbow.

18 DELEGATE SHERBOW: That is right.

19 THE PRESIDENT: Delegate Mitchell.

20 DELEGATE MITCHELL: You have used "bona fide  
21 farmer." Doesn't that express more clearly what is the



1 intention of the committee?

2 THE PRESIDENT: Delegate Sherbow.

3 DELEGATE SHERBOW: I have used the words  
4 "bona fide farmer" because I am quoting the language of the  
5 Hanson amendment. The way in which to do this so that you  
6 will protect property<sup>which</sup> is agricultural property is by the  
7 passage of what the committee has recommended. If you  
8 adopt the Hanson amendment, then you have said anybody who  
9 has got a farm that he owns, it must also be operated by  
10 bona fide farmers, and that settles it. Those words are  
11 there, the Legislature has nothing more to do. Now, I am  
12 trying to say, and I will repeat it over again, what we  
13 have got in the draft as it comes from Style and Drafting  
14 is the closest that you can come in the Constitution to  
15 protecting the proper bona fide, the real, farmer using his  
16 property for agricultural use. The owner of property, maybe  
17 it may be an estate, the farmer has just died. They want  
18 to keep the farm, they don't want to give it up. You can't  
19 do it under the Hanson amendment. It must be operated by a  
20 bona fide farmer.

21 They might be waiting for a kid to get out of





1 college to operate it and let it lie fallow a year or two.  
2 All of those things are things that must be administered to  
3 by the Department of State. That is what is wrong with the  
4 last amendment. They put in eight or ten words and let them  
5 sit.

6 The court said you made the definition. Every-  
7 thing that got into it got in under the Alsop case. We  
8 don't want to fall in that trap.

9 We are trying to provide a method that will protect  
10 the state and at the same time protect the farmers. I don't  
11 know how to say it any more and any better than I have  
12 repetitively said it during this debate.

13 THE PRESIDENT: Delegate Neilson.

14 DELEGATE NEILSON: Mr. President, I move the  
15 previous question.

16 (The motion was duly seconded.)

17 THE PRESIDENT: All in favor signify by saying  
18 Aye; contrary, No.

19 (Chorus of Ayes.)

20 THE PRESIDENT: The Ayes have it and it is so  
21 ordered.



1           The question arises on the adoption of Amendment  
2 1-A as a substitute for Amendment 1. The effect of the  
3 amendment would be that lines 12, 13, and 14 on page 2 would  
4 read "which classes shall include property devoted to  
5 agricultural use as prescribed by law."

6           A vote Aye is a vote in favor of the amendment.  
7 That is a vote in favor of those words in lines 12, 13, and  
8 14. A vote No is a vote against.

9           Cast your votes.

10          (A rollcall vote was taken.)

11          THE PRESIDENT: Has every delegate voted? Does  
12 any delegate desire to change his vote?

13          The Clerk will record the vote.

14          Delegate Clark has voted no. There being 45  
15 votes in the affirmative and 70 in the negative, the motion  
16 is lost and the amendment is rejected.

17          The question now arises on the adoption of  
18 Amendment No. 1 which would have lines 12, 13, and 14 read  
19 "which classes shall include property owned and operated  
20 as farms by bona fide farmers as defined by the General  
21 Assembly by law."





1           A vote Aye is a vote in favor of the amendment,  
2           the substitution of these words. A vote No is a vote  
3           against.

4           Delegate Macdonald.

5           DELEGATE MACDONALD: Mr. President, may I speak  
6           to the amendment?

7           THE PRESIDENT: You may.

8           DELEGATE MACDONALD: Fellow delegates, I would  
9           urgently request that you support this amendment. Now, on  
10          first reading we lost this fight and we **lost** it honestly  
11          and fairly, and we are willing to abide by that decision.  
12          The fight that time was whether this would be permissive or  
13          mandatory and we recognize now that it is going to be a  
14          mandatory exemption but let us confine it to the bona fide  
15          farmer. And let us have the situation which we have under  
16          the present legislation. Under the present legislation  
17          speculators are getting a free ride. Now, if you come from  
18          a rural area you don't have to worry about the speculator.  
19          If you are interested in protecting the bona fide farmer, a  
20          special treatment for the bona fide farmer will suit the  
21          purpose, but we do not want any legislation or regulation of



1 the State Department of Assessment and Taxation which can  
2 be construed as they were in the past to grant these  
3 tremendous tax breaks to the speculator, and I ask you to  
4 please support this amendment.

5 THE PRESIDENT: Delegate Rosenstock.

6 DELEGATE ROSENSTOCK: Mr. President and fellow  
7 delegates, it is very interesting to listen to our learned  
8 city lawyers and our college professors from a large urban  
9 county talk about agriculture. The definition in Delegate  
10 Hanson's amendment you find confusing. It must be remembered  
11 that the original constitutional amendment came about by  
12 the Court of Appeals in its decision holding that unless the  
13 Constitution made for classification of land it would be  
14 unconstitutional. The amendment in our present Constitution  
15 was then written. Under that amendment the Court of  
16 Appeals was forced to hold that somebody who had bought a  
17 farm, I believe in Montgomery County, who was not a bona  
18 fide farmer, his land had to be classified as agricultural,  
19 although the Department of Assessments and Taxation held that  
20 it was not a bona fide farm.

21 Under this attempt to write an amendment to the



1 draft of the committee there are many loopholes in it,  
2 there are a lot of young farmers who cannot own land them-  
3 selves and will have to depend on older farmers to rent  
4 them their farm.

5 Those people who I define as farmers are retired  
6 people. They had farms themselves. Under this, that farm  
7 would not classify. While there was a bona fide farm  
8 operation, sure the speculators get a deduction if they have  
9 a loss on their farm and can carry it. They would be just  
10 as bona fide as this retired farmer who is not farming and  
11 is using his investment to be farmed by a bona fide farmer,  
12 and therefore I would urge the delegates to defeat this  
13 amendment.

14 THE PRESIDENT: Delegate Linton.

15 DELEGATE LINTON: Mr. President, is an amendment  
16 to the amendment in order at this time?

17 THE PRESIDENT: I don't know. What is the  
18 nature of the amendment?

19 DELEGATE LINTON: I would propose that we use  
20 the language that Delegate Hanson has: "which classes  
21 shall include property operated as farms as defined by the





1 General Assembly by law." You would delete "owned and"  
2 and you would delete "by bona fide farmers," and I would  
3 like to speak to the proposed amendment.

4 THE PRESIDENT: Delegate Hanson, did you hear the  
5 suggestion.

6 DELEGATE HANSON: Yes.

7 THE PRESIDENT: Would you accept the amendment?

8 DELEGATE HANSON: Mr. President, I could not  
9 accept the amendment. I think it is an improvement over  
10 the present language --

11 THE PRESIDENT: I didn't ask for a speech, just  
12 an acceptance.

13 (Laughter.)

14 THE PRESIDENT: Delegate Linton, your suggestion  
15 would be in order as a amendment. Is there a second.

16 DELEGATE JAMES: Second.

17 THE PRESIDENT: Is there any objection to con-  
18 sidering the amendment to the amendment notwithstanding the  
19 fact that it is not printed?

20 Delegate Sosnowski.

21 DELEGATE SOSNOWSKI: I would like to have it



1 printed.

2 THE PRESIDENT: Rigid adherence means that we  
3 cannot operate. The relative change is simple. He sug-  
4 gested instead of the phrase "property owned and operated  
5 by bona fide farmers" that the phrase be merely "property  
6 operated as farms."

7 Do you insist upon your objection?

8 DELEGATE SOSNOWSKI: I will withdraw that for  
9 the sake of expediency.

10 THE PRESIDENT: Thank you very much. Is there  
11 a second to Delegate Linton's motion.

12 Are you seconding, Delegate Gleason?

13 DELEGATE GLEASON: I made a suggestion to him  
14 that he would leave the words "owned and" in the substantive  
15 and I think he has agreed to do that.

16 THE PRESIDENT: Delegate Linton.

17 DELEGATE LINTON: I have no objection to the  
18 leaving in of the words and the amendment would read as I  
19 gather it now -- the amendment is to delete the words "by  
20 bona fide farmers."

21 THE PRESIDENT: Is this your amendment?





1 DELEGATE LINTON: Yes.

2 THE PRESIDENT: Is there a second to the amend-  
3 ment?

4 Delegate Gleason seconds the amendment.

5 This will be Amendment 1-B which will delete from  
6 Amendment 1 the phrase "by bona fide farmers."

7 The amendment has been seconded. The Chair  
8 recognizes Delegate Linton.

9 DELEGATE LINTON: Mr. President, I was in the  
10 General Assembly when Mr. Blair Lee, Delegate Blair Lee  
11 from Montgomery County, introduced the original farm assess-  
12 ment provision. It was submitted to the voters of this  
13 state as Judge Sherbow explained. The purpose of a farm  
14 assessment provision in our Constitution was to protect  
15 not especially the farmer himself but the furtherance of the  
16 agricultural pursuits in the State of Maryland because the  
17 property values of land for development greatly exceeds the  
18 value of land for agricultural use. While perhaps -- I saw  
19 recently the accurate figures on how many of our farms are  
20 actually farmer-owned and it was alarming, it was in the  
21 neighborhood of 70 percent of our farms are not owned by



1 the man who actually farms it, and I was interested perhaps  
2 in removing that particular language, but I do believe  
3 whether the property is owned or operated as a farm would  
4 make no difference provided it was entitled to assessment  
5 by its use.

6 It would perhaps be a favor to the farmer to  
7 discourage him from removing this endeavor from the State  
8 of Maryland because it has not been profitable for a number  
9 of years, but it is also anticipated within ten years there  
10 will be a food shortage in this country as well as in a  
11 majority of the world. If we are to continue with the  
12 language that will be as meaningful as the present farm  
13 assessment -- and I would like to elaborate just briefly on  
14 the present farm assessment -- the difficulty arose when  
15 the interpretation was put on agricultural use and then when  
16 ten acres in Rockville was pastured by one cow that farm was  
17 entitled -- that land was entitled to farm assessment.

18 In my opinion, if we adopt language which will  
19 read "which classes shall include land and property owned  
20 and operated as farm as defined by the General Assembly by  
21 law," we can still expect criteria that will grant assessment



1 to farms as was the original intention of the farm assess-  
2 ment provision.

3 THE PRESIDENT: Delegate Powers.

4 DELEGATE POWERS: Mr. Chairman, I move the  
5 previous question.

6 THE PRESIDENT: Is there a second?

7 (The motion was duly seconded.)

8 THE PRESIDENT: The previous question has been  
9 moved. All in favor signify by saying Aye; contrary, No.

10 (Chorus of Ayes.)

11 THE PRESIDENT: The Ayes have it and it is so  
12 ordered.

13 The question arises on the adoption of Amendment  
14 1-B.

15 For what purpose does Delegate Bamberger rise?

16 DELEGATE BAMBERGER: Parliamentary inquiry.

17 Will the Chair restate the amendment please?

18 THE PRESIDENT: The amendment is to strike from  
19 Amendment 1 the words "by bona fide farmers" appearing in  
20 lines 4 and 5.

21 The question arises on the adoption of Amendment





1 1-B. A vote Aye is a vote in favor of the amendment. This  
2 simply amends Amendment 1. A vote No is a vote against.

3 Cast your votes.

4 (Whereupon, a rollcall vote was taken.)

5 THE PRESIDENT: Has every delegate voted? Does  
6 any delegate desire to change his vote?

7 The Clerk will record the vote.

8 There being 76 votes in the affirmative and 35 in  
9 the negative, the motion is carried and the amendment is  
10 adopted.

11 The question now arises on the adoption of  
12 Amendment No. 1 as amended. The Clerk will ring the quorum  
13 bell.

14 For what purpose does Delegate Macdonald rise?

15 DELEGATE MACDONALD: Inquiry.

16 THE PRESIDENT: State the inquiry.

17 DELEGATE MACDONALD: Mr. President, could you  
18 please read to us now the amendment as it stands starting  
19 on line 12 "which classes."

20 THE PRESIDENT: Very well.

21 The question arises on the adoption of Amendment



1 1 as amended. The effect of the amendment as amended would  
2 be to substitute the following language in lines 12, 13 and  
3 14 in lieu of everything in those lines "which classes shall  
4 include property owned and operated as farms as defined by  
5 General Assembly law."

6 A vote Aye is a vote in favor of the amendment.  
7 A vote No is a vote against. Cast your vote.

8 (Whereupon, a rollcall vote was taken.)

9 THE PRESIDENT: Has every delegate voted? Does  
10 any delegate desire -- Delegate James Clark.

11 DELEGATE JAMES CLARK. Aye.

12 THE PRESIDENT: Delegate Clark votes Aye.

13 The Clerk will record the vote.

14 There being 62 votes in the affirmative and 49 in  
15 the negative, the motion is carried and the Amendment 1 as  
16 amended by Amendment 1-B is adopted.

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1 THE PRESIDENT: For what purpose does Delegate  
2 Churchill Murray rise?

3 DELEGATE CHURCHILL MURRAY: To ask the Chair  
4 if it would be in order to ask the maker of the amendment  
5 which has just been adopted whether he would substitute the  
6 word "all" in place of "and".

7 THE PRESIDENT: He would have no authority  
8 to do that. The amendment has been acted upon by the  
9 Convention.

10 DELEGATE CHURCHILL MURRAY: Then to change it  
11 would take another amendment, would it not, sir?

12 THE PRESIDENT: That is correct, sir.

13 DELEGATE CHURCHILL MURRAY: Would this be a  
14 proper time to offer it, or wait until this has been  
15 acted upon?

16 THE PRESIDENT: If you are going to offer it, you  
17 would have to offer it now.

18 What is the proposed amendment?

19 DELEGATE CHURCHILL MURRAY: The proposed amendment  
20 is that the word "all" be substituted for the word "and".

21 THE PRESIDENT: You mean in the amendment one



1 that it would read "property owned or operated as farms"?

2 DELEGATE CHURCHILL MURRAY: Yes, sir.

3 THE PRESIDENT: The Chair believes the motion  
4 is out of order.

5 Any further amendments to section 6.03? The  
6 Chair hears none.

7 To section 6.04? The Chair hears none.

8 Any amendments to section 6.05? The Chair hears  
9 none.

10 Any amendments to section 6.06? The Chair hears  
11 none.

12 Any amendments to section ---

13 Delegate Stern, do you have an amendment to  
14 Section 6.06?

15 DELEGATE STERN: Yes, sir. No. B.

16 THE PRESIDENT: This will be amendment 2. The  
17 pages will distribute Amendment B.

18 This will be amendment No. 2. The Clerk will  
19 read the amendment.

20 MR. QUILLEN: Amendment No. 2 to committee  
21 recommendations SF-2, 3, 4 and 5, as amended by Report



1 S&D-10, by Delegate Stern and others:

2 On page 3, section 6.06. State Indebtedness:

3 In line 9 place a period after the word "incurred" and  
4 strike out the remainder of this line and all of lines  
5 10, 11, 12, and 13.

6 THE PRESIDENT: Amendment No. 2 submitted by  
7 Delegate Stern and seconded by the co-sponsors. The  
8 Chair recognizes Delegate Stern.

9 DELEGATE STERN: The provision as it now stands  
10 is an expensive change, not hundreds or even thousands,  
11 or hundreds of thousands, but millions of dollars of  
12 change, and that is a lot of change.

13 On December fifth I showed you this chart.  
14 It showed at the time a million dollar loan at the composite  
15 rate of 3.6647, the rate used in June when \$34.9 million in  
16 bonds were issued. On that day that you saw this chart the  
17 state sold \$52,045,000 in bonds for a net annual interest  
18 of 4.21856. By the time these bonds are retired in 1983,  
19 the state will have paid \$20,953,389.02 in interest.

20 This rate is the highest rate since 1932. Let  
21 me show you the difference in the two from what we paid





1 before.

2 This represents the chart for only one million.  
3 Figure the gap between the two at \$54 million.

4 Dr. Cooper has told us that the additional  
5 interest for 25 years, that the interest for 25 years  
6 would be \$31 million, a difference of \$10/<sup>million</sup>for extending  
7 it ten years. This is the dollars that we are talking  
8 about. The longer you take to pay back, the more  
9 dollars you must pay for interest. Not only is it costlier  
10 because you pay longer, but the interest rate goes up.

11 This chart just assumes the same interest,  
12 but it is a known fact the longer the maturity date the  
13 interest rate is higher. With the lowered annual  
14 payments on 25 years of principle and interest comes a  
15 tendency to increase the debt.

16 The 15 year limitation keeps a reasonable limita-  
17 tion on debt. 15 years is an adequate compromise between  
18 pay as you go advocates, and those who wishto have indebted-  
19 ness. We now have the triple A rating, the highest you  
20 can get. The higher the rating, the lower the cost.

21 <sup>asked</sup>  
You are being/ to make a change which could



1 affect that interest, that credit rating and the interest  
2 rate.

3 The provision as shown here claims to give  
4 flexibility. It does not. We were told that if the 25  
5 years were authorized the legislature would vote for 25  
6 years, under pressure to have the bond issue floated and  
7 the proceeds used for the benefit of the State. In the  
8 last nine years the most dissenting votes on any bond  
9 issue in both houses was seven. The majority of bond issues  
10 passed in both houses have been unanimous. Why change?  
11 Why change what has served us well for 100 years? Why  
12 speculate and why spend?

13 As I said before, simply, the object of debt  
14 is to get out of it.

15 THE PRESIDENT: Delegate Sherbow.

16 DELEGATE SHERBOW: Mr. President, and ladies  
17 and gentlemen: I hope you will vote against this  
18 amendment. It is not easy to take statements that are  
19 probably incorrect, and in a short time correct them, but  
20 when they say to you that bonds of longer maturity are  
21 bonds that require higher interest rates, this just isn't so.





1           Just let me give you one example. The State  
2 of Maryland sold its bonds on a 15-year maturity base.  
3 Washington County sold bonds with either a 20 or 25-year  
4 maturity basis. The State of Maryland had a triple-A  
5 rating, Washington County got a lower rate the day before  
6 with a longer maturity. All this simply goes to prove is  
7 only one thing, and that is that the money market is not a  
8 stabilized thing. It goes up and it goes down, and many  
9 factors enter into the consideration of what you pay  
10 for interest.

11           Now, I am one of those who like to believe you  
12 should try to get out of debt, but I believe the State  
13 should also bear in mind that it has services to perform.  
14 It has one particular service to perform, and that is  
15 for its people who may not all be in the same classification.

16           For example, there are counties in Maryland that  
17 are not so well off as other counties in Maryland. Some  
18 of us have been responsible for providing aid to these  
19 counties for the construction of schools, and for Baltimore  
20 City as well, but when the counties have to repay this money  
21 for the construction of schools where the state is doing the



1 borrowing because it has got the triple-A rating, many of  
2 those counties have been unable to participate, and the  
3 reason they have been unable to participate is because they  
4 can't pay the money back in 15 years.

5 Now, these are agencies of our government who  
6 may be in a position 50 or 100 years, yet to come when it  
7 will be necessary for us to take advantage of borrowings  
8 in order to aid not only the subdivisions, but the needs  
9 that occur. Now, if I were as smart as those who  
10 profess to see the next 50 or 100 years, I would pick out  
11 whatever is the right year, and say this shall be its  
12 maturity, but I don't think any of us are quite that smart.  
13 What we have done is this: We know what we have got. We  
14 know that we have got a 15-year maturity, we know that it  
15 is good, and we know also that we have a triple-A rating,  
16 but just in case the time comes when we need to provide  
17 that extra aid, maybe to match some tremendous need  
18 that comes from the federal government's funds which have to  
19 be matched, maybe the need for a crash program to provide  
20 schools, I don't know, but the point is that we have  
21 provided the protection that we need, and that is simply





1 this: the legislature may go to 25 years, but if it does,  
2 it may be 16 or 18 or 20, but if it does it shall be by a  
3 three-fifths majority.

4 Now, I am asking you just one question: What  
5 have we been doing in this Constitutional Convention?  
6 If you are to listen to the statement that the legislature  
7 will glibly pass all of them on a unanimous basis, that  
8 isn't the kind of legislature that I have been striving  
9 to strengthen. I have too much faith to believe that they  
10 are just going to simply, willy-nilly go ahead and borrow  
11 this money without regard to its need or to the majority.

12 Now, there are other reasons why from a business  
13 point of view this flexibility may be needed.

14 You sell on a 15-year maturity basis at an  
15 interest rate; you couldn't have callable bonds today,  
16 nobody would buy them, or you would have a provision  
17 which might cost you too much money. If you are going  
18 to have them beyond that date, and interest rates change,  
19 there is always the opportunity to make those bonds callable.

20 Who knows among you here what is going to be the  
21 answer over the next 50 or 100 years?





1           Now, we put this to Jim Rennie, who spent 40  
2 years in this State first in the department of finance,  
3 all the way through to where he was budget director, to  
4 the Honorary Chairman of this Convention, and Governor  
5 for eight years.

6           I spoke to Jim Rennie. He said this is the  
7 answer to it. I spoke to **Lautkemeyer**, the Treasurer.  
8 I spoke to Dr. Paul Cooper. What I am saying to you is  
9 that they approve this. Our committee has approved it.  
10 We have given you the best judgment. Don't lock it in so  
11 that for the next 50 or 100 years it can't be changed.

12           This provision gives you the flexibility that  
13 you need. It can only be used when the legislature votes  
14 by a three-fifths majority. Remember, the Governor always  
15 has the veto power. Times may change, and under those  
16 conditions we say to you that the State of Maryland should  
17 have the protection that it needs, and I ask you to vote  
18 against the amendment.

19           THE PRESIDENT: Are you ready for the question?  
20           Delegate Marvin Smith.

21           DELEGATE MARVIN SMITH: I move the previous



1 question.

2 (The motion was duly seconded)

3 THE PRESIDENT: All in favor signify by saying  
4 Aye. Contrary No. The Ayes have it.

5 The question arises on the adoption of amendment  
6 No. 2. A vote Aye is a vote in favor of the amendment.  
7 A vote No is a vote against.

8 The Clerk will ring the quorum bell.

9 The question arises on amendment No. 2. A  
10 vote Aye is a vote in favor of the amendment. A vote No  
11 is a vote against.

12 Cast your vote.

13 Delegate James Clark.

14 DELEGATE JAMES CLARK: I vote Aye.

15 THE PRESIDENT: Delegate James C lark votes Aye.

16 Have all delegates voted? Does any delegate  
17 desire to change his vote?

18 The Clerk will record the vote.

19 There being 39 votes in the affirmative, and 73  
20 in the negative, the motion is lost, and the amendment is  
21 rejected.





1 Any other amendments to section 6.06?

2 Section 6.07?

3 Delegate Stern.

4 DELEGATE STERN: I have one for section 6.06  
5 marked C.

6 THE PRESIDENT: The amendments not sponsored by  
7 15 delegates will be passed. We will come back to it. It  
8 does not have priority.

9 Any other amendments to these amendments, or  
10 amendments to Section 6.08? 6.09? 6.10? 6.11? 6.12?

11 Delegate Hanson, do you desire to offer your  
12 amendment D?

13 DELEGATE HANSON: Yes, Mr. President.

14 THE PRESIDENT: Pages will distribute amendment  
15 D.

16 This will be amendment No. 3. The Clerk will  
17 read the amendment.

18 MR. QUILLEN: Amendment No. 3 to committee  
19 recommendation SF-2, 3, 4 and 5, as amended by report S&D-10  
20 as amended by Delegate Hanson and others:

21 On page 5; strike out all of lines 9 through



1 39, inclusive, comprising Section 6.12. Amendment of  
2 Budget Bill and section 6.12. Enactment of Budget Bill, and  
3 insert in lieu thereof the following:

4 "Section 6.12. Amendment of Budget Bill

5 The General Assembly may amend the budget bill  
6 by increasing or decreasing the appropriation for any item  
7 included in the budget, by transferring funds among items  
8 included in the budget or by including items not in the  
9 budget bill as introduced. The total appropriation included  
10 in the budget bill as enacted by the General Assembly shall  
11 not exceed the total budgeted expenditures submitted by  
12 the governor. The General Assembly shall not reduce or  
13 strike out any appropriation of sufficient funds for the  
14 timely payment of the interest upon and installments of  
15 principal of all state indebtedness and appropriations  
16 required by law for state support of public school systems.  
17 The compensation of a public officer shall not be decreased  
18 during his term of office.

19 Section 6.13. Enactment of Budget Bill

20 The General Assembly shall remain in session  
21 until the budget has been enacted. If the budget bill



1 shall not have been passed by both houses of the General  
2 Assembly by the eightieth day of its regular session, the  
3 General Assembly shall finally enact no other legislation  
4 until the budget bill has been enacted. Within ten days  
5 following passage of the budget bill by both houses of  
6 the General Assembly, the governor may reduce or strike  
7 out any appropriation contained in the budget bill, and  
8 each reduction or veto of an appropriation item shall  
9 be effective unless overridden by a vote of three-fifths  
10 of all the members of each house of the General Assembly  
11 within ten days after the action by the governor."

12 THE PRESIDENT: The amendment has been submitted  
13 by Delegate Hanson, and seconded by the co-sponsors.

14 The Chair recognizes Delegate Hanson.

15 DELEGATE HANSON: Mr. President, I appreciate  
16 not your/designating this amendment."D" for "dog".

17 This amendment is the same amendment that came  
18 before this body as a Committee of the Whole. It was  
19 brought back here simply for one reason: We who sponsor  
20 it believe it is a better provision for the budgetary  
21 process than that provided by the Committee on State,





1 Finance and Taxation. This provision has been called  
2 by the Chairman of the Committee, I think appropriately,  
3 one of the most important matters before this Convention.

4 It does make some change in the budgetary  
5 process. It does make it possible for the General Assembly  
6 to increase within the plan -- within the total expenditure  
7 limit recommended by the Governor, the budget of the state,  
8 but then only subject to veto by the Governor.

9 I think most of what has to be said about this  
10 was said in the Committee of the Whole, was said in the  
11 exchange of letters which has appeared in the Baltimore  
12 Sun which have been distributed over the past week or  
13 so on all of our desks.

14 I will take only one moment to answer two  
15 or three allegations that have been made in the letters.

16 One, which appeared from a gentleman who is  
17 not a member of this Convention, who suggested that it was  
18 not proper to provide some latitude for the legislature  
19 in handling the budget, because the budget was not a  
20 policy document. I am sure that the President of the  
21 University of Maryland will be intrigued to learn this, and



1 I believe that all of us are quite aware that budgeting  
2 is the heart of the policy process in government in the  
3 system of assigning priorities.

4 Also many references have been made from time  
5 to time about the Goodnow Commission which in 1915 made  
6 recommendations concerning the budgetary process. I think  
7 by a somewhat different route, not a greatly different  
8 route, but by a somewhat different route and by more modern  
9 procedures, this amendment achieves what the Goodnow  
10 Commission sought to achieve.

11 If I might read just briefly from the report  
12 of the Goodnow Commission. It said on page 10 of its  
13 report:

14 "It was recognized that the weakness of all  
15 American financial methods, in the Congress of the United  
16 States, as well as in the Legislatures of the separate  
17 States, was to be found in the practice to which all American  
18 legislative bodies are addicted of adding either to the  
19 amounts demanded by the administrative departments, or to  
20 the items for which appropriations were asked."

21 "The Commission is of the opinion --" it went





1 on to say, " -- that it is advisable to give the Legislature  
2 the power to initiate appropriations for objects for which  
3 the Governor has made no estimates. The Commission feels,  
4 however, that it is necessary to prevent the recurrence  
5 of deficits in the finances of the State, and to fix  
6 the responsibility for any derangement of the financial  
7 plans of the Governor. It has accordingly framed the  
8 proposed constitutional amendment in such a way as to permit  
9 the Legislature by a three-fifths vote, and subject to the  
10 usual provisions with regard to the approval of the Governor,  
11 to appropriate money for a purpose not included in the  
12 Governor's estimates, on the condition that provision is  
13 made in the act of appropriation for the levy of a tax  
14 sufficient in the amount to defray the expenses necessitated  
15 by such act of appropriation."

16 I submit, ladies and gentlemen, that what we  
17 are doing here is to permit the General Assembly to use  
18 revenues that are available to it when it reduces an item  
19 in the budget to transfer those revenues to another program  
20 if in its judgment it feels that the best interests of the  
21 state would be served by making that transfer.



1           The General Assembly represents the people of  
2     the state just as the Governor does. It is an equal and  
3     co-extensive function of the General Assembly to exercise  
4     its judgment as to what the public interest is. Every  
5     argument that can be made against increasing the budget  
6     can equally be made against the power of the legislature  
7     to decrease the budget. We are confident that if logic  
8     is our test, that you will come down on our side.

9           If modern budgetary practice is our test, we are  
10    confident that you will agree with this amendment.

11          We realize that it is a break from tradition, but  
12    we agree with the Sun editorial of a few days ago, it said  
13    perhaps we should like to see if we cannot improve upon what  
14    has been a very useful and constructive condition in the  
15    budgeting in Maryland.

16          The amendment would not create a deficit. It  
17    would not permit a profligate spending spree by the state  
18    legislature. It would require before any increase could  
19    become effective, it would have to receive the approval  
20    of the Governor. If the Governor did not approve, then the  
21    General Assembly would have to muster a three-fifths vote





1 to sustain the increase. It is fiscally and politically  
2 responsible.

3 THE PRESIDENT: Chairman Sherbow.

4 DELEGATE SHERBOW: I am happy to say I can agree  
5 with Delegate Hanson, and that is probably this is one of  
6 the most important matters that will come before this  
7 Constitutional Convention. After that I disagree completely.

8 Let me tell you what I consider this amendment as  
9 doing. It absolutely flies in the teeth of everything that  
10 has meant fiscal responsibility for the State of Maryland.

11 Now, let me call the roll of all those who urge  
12 you to vote against this amendment. First, I hold in my  
13 hand a letter from Governor Agnew in which he says "I  
14 disagree with their proposal to give the legislature  
15 authority to increase appropriations and shift amounts  
16 between programs which the executive is charged with  
17 formulating, and executing. This can only lead to increased  
18 pressures on the legislature from department heads who have  
19 not been granted funds in the full amount requested, and to  
20 log-rolling at its worst among individual legislators."

21 Governor Agnew goes on: I can't take the time





1 now to read the full letter, we don't have that much time.  
2 Let me call the next roll. The legislative leaders,  
3 the people who would have this opportunity. What do they  
4 say?

5 I hold in my hands a letter from the Senator who  
6 is Chairman of the Senate Finance Committee in which he  
7 says:

8 "The Legislative Liaison Committee for the  
9 Constitutional Convention has considered both the present  
10 system and the proposal to amend the budget power of the  
11 General Assembly. The committee has gone on record as  
12 being overwhelmingly in favor of retaining the present  
13 system as proving to be fiscally sound, and in the best  
14 interests of the people of Maryland."

15 They voted 9 to 2 to keep what we have, these  
16 legislative leaders who know.

17 The Commission on Governmental Efficiency and  
18 Economy, non-party people who have no axe to grind. They  
19 say keep it as you have it. I have this letter. I think it  
20 has been addressed to all of you as well.

21 Governor Tawes, sitting next to me, takes the



1 same view: Keep what we have got. Don't let this kind  
2 of change take place, because it does amount to fiscal  
3 irresponsibility.

4 We have listened to the Legislative Branch  
5 Committee, and others here, and I have agreed with much  
6 of what they have said that the Eagleton Committee report  
7 is one of the things that blazes the way for a new deal,  
8 a new day for our General Assembly, and the Eagleton  
9 Report says likewise: Keep what you have got. Do not  
10 change it. And they add further to what they say: they have  
11 not come across legislators who believe it should be  
12 changed.

13 Fifteen years ago we had a study made in Maryland  
14 by the Sobeloff Commission. They made a study in depth,  
15 and they too replied: Keep the system that we have.  
16 It has worked well.

17 Now, there hasn't been any debate on this  
18 unusual change in our whole system except the debate  
19 that was unexpectedly sprung on us at the time we were  
20 considering this at the last time. There hasn't been  
21 another word added to it since that is new other than





1 the fact that the Governor and the legislative leaders,  
2 all of them, reiterate what they have said, that what we have  
3 got is good.

4 I would just say to you that I don't understand  
5 the reading of the Goodnow Report. I was going to quote  
6 it to you because it says what we say: "This proposed  
7 Constitutional amendment is framed in such a way as to  
8 permit the legislature by a three-fifths vote, subject to  
9 the usual provision with the approval of the Governor, to  
10 appropriate money for a purpose not included in the  
11 Governor's estimate on the condition that provision is made  
12 for a levy of a tax sufficient in an amount to defray the  
13 expenses.

14 That is exactly what we say we have got, and that  
15 is exactly what we want to keep, but this is not what  
16 this amendment calls for. It means they can shift from  
17 one end of the budget spectrum to another and put in the  
18 kind of programs they want. It will be the programs of  
19 those who are able to accomplish this. This is not the  
20 Maryland way. We have had fiscal responsibility. We  
21 have had the kind of government that has meant this.



1 If you want your program, and are a member of the legisla-  
2 ture, that the legislature ---

3 THE PRESIDENT: Just a minute.

4 DELEGATE SHERBOW: I always said you shouldn't  
5 shift those budget things around. What I am saying is that  
6 the Governor will not have a budget that is his program,  
7 but if as members of the legislature they want these  
8 programs. Let me tell you the two ways in which it can  
9 be done: First they may reduce the Governor's budget.  
10 First all that is necessary is for the General Assembly  
11 to pass a law and provide the tax for it, or if they are  
12 not up to that, the program then can go into effect in the  
13 following year. The Governor then must fund the program,  
14 and you want to know something: Over 80 percent of what  
15 goes into that budget goes in because it is already in the  
16 law, and this is what is provided, and this is the orderly  
17 way in which it can and should be done.

18 I say to you that there isn't anything that this  
19 Constitutional Convention could do that would more  
20 adversely affect this state and its fiscal affairs, and  
21 fiscal policies, than if you adopted this amendment, and I





1 hope that you will cast the same resounding vote against  
2 it that you did when it came up the last time, so people  
3 who vote on the Constitution will know that this Constitution  
4 believes in fiscal responsibility.

5 THE PRESIDENT: Delegate Peters.

6 DELEGATE PETERS: I move the previous question.

7 (The motion was duly seconded)

8 THE PRESIDENT: All in favor signify by saying  
9 Aye. Opposed No. The Ayes have it, and it is so ordered.

10 The question arises on the adoption of amendment  
11 No. 3. The Clerk will ring the quorum bell.

12 For what purpose does Delegate Pullen rise?

13 DELEGATE PULLEN: Mr. Chairman, I would like to  
14 ask a question ---

15 THE PRESIDENT: The previous question has been  
16 moved. No further questions or debate are permissible.

17 The previous question has been ordered, I should  
18 have said. We have to take a vote on amendment 3.

19 DELEGATE PULLEN: There are two parts in here --  
20 there are two things we are voting on. I will take the  
21 first. The second I think should be divided, and voted upon





1 separately.

2 THE PRESIDENT: I think you are too late to ask  
3 for a division.

4 DELEGATE PULLEN: I didn't have a chance before.

5 THE PRESIDENT: I think you did. The previous  
6 question has been ordered.

7 The question arises on the adoption of amendment  
8 No. 3. A vote Aye is a vote in favor of the amendment. A  
9 Vote No is a vote against.

10 Cast your vote.

11 Has every delegate voted?

12 Delegate James Clark.

13 DELEGATE JAMES CLARK: No.

14 THE PRESIDENT: Delegate James Clark votes No.

15 Does any delegate desire to change his vote?

16 The Clerk will record the vote.

17 There being 32 votes in the affirmative, and 78  
18 in the negative, the motion is lost and the amendment is  
19 rejected.

20 Any other amendments to sections 6.12 or 6.13?

21 Delegate Kosakowski.



1 DELEGATE KOSAKOWSKI: I rise on a point of  
2 personal privilege.

3 THE PRESIDENT: State the privilege.

4 DELEGATE KOSAKOWSKI: Mr. President and  
5 delegates of this Convention: I see something happening  
6 here that many delegates have accused members of the  
7 legislature of employing tactics. Delegate Pullen arose  
8 and tried to ask the question, and as, according to the  
9 rules, passed by this honorable body, and we are supposed  
10 to have been living by the rules, and in the past I have seen  
11 you -- with your kindness, Mr. President -- go beyond  
12 the rules, and give everyone an opportunity to be heard  
13 and now I see the old steamroller being applied, and that  
14 is all that it is.

15 Mr. President, this is a Convention, and we  
16 did set the rules, and I don't believe that anyone here  
17 is deliberately bringing amendments to try to delay this  
18 Convention. I believe that any amendment placed now on  
19 second reading is sincere, but those who are proposing  
20 these amendments -- Mr. President, in fairness, five  
21 more minutes or ten more minutes of your time is all that





1 may be asked.

2 I sat here and heard for hours and hours and  
3 days the greatest political legal shadow boxing that I  
4 have ever witnessed in the State of Maryland, and we as  
5 delegates sat here and we listened, and we observed, and  
6 we voted.

7 All I am asking you, Mr. President, and ask  
8 the kindness of the delegates here, if you really want to  
9 go home, you can leave now, but we were elected to do a  
10 job, irregardless of how we feel toward one another,  
11 regardless of our differences of opinion, but by God don't let  
12 this Convention go down into history and say we have used  
13 railroading tactics, please show a little courtesy of  
14 reasonable time.

15 THE PRESIDENT: Delegate Kosakowski, I  
16 respect you a great deal, and therefore want to comment  
17 that I want to assure you -- and I believe you will accept  
18 my assurance -- that there wasnot the slightest desire  
19 on the part of the Chair, nor do I believe of any of the  
20 delegates in the Convention, to railroad any action through  
21 this Convention, and I don't think that that has been



1 evidenced at all. I do not understand that Delegate Pullen  
2 wanted to offer any other amendment. He was seeking to divide  
3 the question on the amendment that was offered.

4 The previous question had already been ordered.  
5 I do not believe the Chair had any discretion.

6 Are there any other amendments to Section 6.08?

7 6.09?

8 6.10?

9 6.11?

10 6.12?

11 Section 6.13?

12 6.14?

13 6.15?

14 Delegate Grumbacher.

15 DELEGATE GRUMBACHER: I have an amendment marked  
16 "F".

17 THE PRESIDENT: That is not an amendment spon-  
18 sored by 15; is that correct?

19 DELEGATE GRUMBACHER: That is correct.

20 THE PRESIDENT: We will have to pass it and come  
21 back. We are talking now only about the preferred



1 amendments to section 6.16. Unnumbered section at the  
2 end on page 6, beginning in line 39.

3 Delegate Kosakowski, you have an amendment A.  
4 Do you desire to offer it.

5 DELEGATE KOSAKOWSKI: Yes, Mr. President.

6 THE PRESIDENT: Pages please distribute amendment  
7 A. A for Able.

8 This will be amendment No. 4. The Clerk will  
9 read the amendment.

10 MR. QUILLEN: Amendment No. 4 as amended by  
11 report S&D-10 to Committee Recommendation No. SF-2, 3, 4  
12 and 5, by Delegate Kosakowski, and co-sponsors.

13 On page 6 strike out all of section \_\_\_\_.  
14 Lottery, comprising all of lined 37 through 45, inclusive.

15 THE PRESIDENT: The amendment has been offered  
16 by Delegate Kosakowski, and seconded by the co-sponsors.

17 Delegate Kosakowski.

18 DELEGATE KOSAKOWSKI: Mr. President and  
19 delegates: I do not enter this amendment to take up your  
20 time. I think the majority of the delegates have been  
21 patient with one another. I did not stand up here





1 previously to raise cain with anyone in particular, but I  
2 thought it no more than right, and no more than fair that  
3 due consideration be given to all parties concerned.

4 Delegate Sherbow has done such a wonderful job  
5 in his committee that he sort of mesmerizes people- He  
6 almost mesmerized me, as he spoke to the Committee of the  
7 Whole.

8 I have a great deal of respect and have always  
9 looked up to Delegate Sherbow for his wisdom and great  
10 knowledge, but even the wisest man sometimes errs, and I  
11 think Delegate Sherbow has erred in this area.

12 I **based** this amendment in deleting the lottery  
13 provision not were I for or against the lottery or for or  
14 agasint gambling, but whether or not this is a Constitutional  
15 matter. I have heard a great deal said here by our  
16 colleagues, as long as their ox wasn't gored, it was a  
17 great thing, but if we are really going to move the  
18 Constitution and make it a modern one, and to make it  
19 resilient and pliable, let us leave this antidated  
20 language out. Let us make it a modern Constitution.

21 I have heard many of our learned educators say



1 that they would place into the hands of the 19-year-old  
2 voters their government, and yet when I looked at the  
3 list on the lottery proposal, I found that they had  
4 the great fear that these young, wonderful, well-educated  
5 new voters would not understand.

6 Let us open this Constitution to these people.  
7 After the Committee of the Whole had passed on this  
8 inclusion I took it upon myself, Mr. President, to go  
9 into my district and my other colleagues in my district  
10 know we are close to the people in our district. I  
11 see them every day. I have in my hands some petitions  
12 that I wrote just to get a sense of feeling of what people  
13 are saying, and what they are talking about as to this  
14 Constitution, and don't let anyone be foooled that people,  
15 the people that we are writing the Constitution for, the  
16 working man, the taxpayer, the fellow that is going to foot  
17 the entire bill, he has something to say, and he wants to  
18 say it.

19 In this petition I wrote "We, the undersigned  
20 voters, are opposed to the inclusion in a modern Maryland  
21 Constitution of any prohibition on lotteries", and to





1 my amazement, just placing these in a few places, taverns,  
2 beauty shops, confectionary stores, I did not have any  
3 organized time or a group to put these out, but to my  
4 amazement I find names and addresses from all around the  
5 Baltimore metropolitan area -- Millersburg, Glen Burnie,  
6 Lithicum, Dressenville, Landsdown-- the zone numbers that  
7 appear on here are from all over the city.

8 I speak to this Convention with all sincerity.  
9 I appeal to the intelligence and wisdom of the delegates  
10 here that upon second reading we may polish a Constitution  
11 that up to this date I feel is a good one, but let us  
12 trim the straws off a little. Let us give to the people  
13 something that they desire ---

14 THE PRESIDENT: You have one-half minute,  
15 Delegate Kosakowski.

16 DELEGATE KOSAKOWSKI: I will not speak longer  
17 than that in only asking this honorable body to reconsider  
18 their deliberations as to their vote on the Committee of  
19 the Whole, and as sitting in this Convention, and if you  
20 would delete the provisions on lottery or gambling per se,  
21 the issue is: should it be in a Constitution or not.



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In closing, I won't quote Delegate Sherbow, but I believe everybody read his quote in the press. Thank you.

THE PRESIDENT: Delegate Sherbow.

DELEGATE SHERBOW: Mr. President, ladies and gentlemen of the Convention: I have too much affection and esteem for Delegate Kosakowski to want to mesmerize him. I think that in all the years we have known each other he has respected my views, and I have respected his.

He favors lotteries, and I don't. I don't think that is the real issue. I don't think the real issue is whether or not you leave it in the Constitution or take it out. I think the real issue is whether or not you are going to open Maryland to the kind of evils that are occurring in other parts of the country.

Ladies and gentlemen, I think that in the last debate we pretty well went through the entire picture as it dealt with lotteries. Let me just sum it up. 36 States have a ban on lotteries in their Constitution. Maryland likewise has this ban. Don't forget we have to go before



1 the people in the month of May, and I am not exaggerating  
2 when I tell you that the view that will be expressed by  
3 the people is not the view of these people who will sign  
4 something that is lying before them without having heard  
5 or engaged in any debate.

6 I told you of what happened in Rhode Island.  
7 In Rhode Island they took their ban out of the Constitution  
8 and it was to be submitted to the people on November 7th,  
9 and Governor Chaffee got their Constitutional Convention  
10 to withdraw it from the vote of the people because of two  
11 things in it that made it so bad that it would be  
12 overwhelmingly defeated. One dealt with the subject of wire  
13 tapping, and the other was that they removed the ban on  
14 lotteries, and he said "It is worse than any Constitution  
15 we have. We are not going to submit it", and all of the  
16 work up to that point went for naught. They withdrew it.

17 What did the leading newspaper up there say?  
18 The proposed Constitution eliminates the existing ban on  
19 the running of state lotteries, and if that draft is  
20 approved every voter in Rhode Island can expect to see  
21 a dozen different bills before the legislature to put the





1 state into the gambling business in spite of the unhappy  
2 experiences of New York and New Hampshire.

3 I read to you from the Wall Street Journal the  
4 sad experience of England as of today. I read to you from  
5 other places of the sad experience of the influx of the  
6 Mafia, and I don't ask you to do anything more than to  
7 hark back to the terrific fight that the Governor of  
8 Maryland had just to try to ban the gambling in the  
9 southern Maryland counties, and up until this moment all  
10 that has been accomplished so far as the gambling interests  
11 are concerned is that they are waiting, waiting for you to  
12 say we are taking the ban of lotteries out, and they will  
13 be banging at the doorstep of the legislature with all  
14 the pressure they can to end the phase-out of the gambling  
15 machines, and to come in with their ideas as to lotteries.

16 Now, ladies and gentlemen, let me tell you a  
17 new phase of this matter, and I urge you please to listen  
18 to this, because it is different from what you have had  
19 before. You have passed -- and I joined with you in voting  
20 for the local government provision. You bear in mind, then  
21 that each of the counties, and each of the cities, will then



1  
2 have certain power, and one of those powers when there is  
3 no ban on the Constitution, is the right on their part to  
4 proceed with lotteries on their own, and all I can tell  
5 you is with that kind of proliferation almost anything  
6 can happen in Maryland.

7 Now, lotteries are a sad way to try to raise  
8 money. It has its worst effect on the poor. And I don't  
9 smile when people say to me, "Oh, well, so far as we  
10 are concerned it will take some of the skimming off the top  
11 of the numbers racket," and all that experience has shown  
12 is that the lotteries run side by side, the numbers rackets  
13 flourish, and the poor get bulked that much worse."  
14 know whereof I speak. This kind of corruption ought never  
15 to be allowed to fester in the State of Maryland. This  
16 has been debated. You are aware of what it means.

17 I urge you to keep in our Constitution this ban  
18 on lotteries, to the extent that it will make it impossible  
19 for the State of Maryland or any of our political subdivisions  
20 to offer this pie in the sky to the poor in the hope that that  
21 will ease their tax burden, when it will do nothing of the





1 kind, and I urge you to vote against this amendment.

2 THE PRESIDENT: Delegate Koger.

3 DELEGATE KOGER: Mr. President and Mr. Chairman,  
4 and ladies and gentlemen: Just one word or two.

5 First of all, a minority report was made from  
6 our committee. We gave a full-dress report on this matter.  
7 At that time we lost by 22 votes.

8 Now, any time you lose by only 22 votes against  
9 something you have had in your Constitution for years  
10 and years, it is evident that people would like to do  
11 something about it, and since we have had this hearing,  
12 we have seen in the Baltimore Sun papers and many of the  
13 papers, support of the same thing that we are asking you,  
14 which is merely to leave it out of the Constitution.

15 I do sincerely hope that you will find that it  
16 will be to the great advantage of your State not to include  
17 this in your Constitution.

18 THE PRESIDENT: Delegate Jett.

19 DELEGATE JETT: Mr. President and fellow  
20 delegates:

21 I know that this is a matter that is close to



1 a lot of people, and they feel very seriously about it, but  
2 I say to you that it has been put before this Convention  
3 in the wrong guise. This is not a fiscal matter, it is  
4 not a moral matter. You are not going to eliminate gambling  
5 in Maryland. We are going to have gambling in Maryland  
6 and people want gambling in Maryland. I say to you that  
7 this is something that doesn't belong in the Constitution,  
8 and we all know that it is something that should be left  
9 to the legislature.

10 I believe that it is time that we quit talking  
11 with our tongues in our cheeks, and say leave to the  
12 legislature such tremendous fiscal questions as we have, and  
13 leave that to the wisdom of the legislature, when what  
14 we are really saying is leave it to the stupidity of the  
15 legislature.

16 What we need is a competent, able legislature  
17 to deal with this thing. This is a legislative problem.  
18 It should not be put in the Constitution under any guise.  
19 It is not something that is proper for the Constitution.  
20 It is something that the legislature should grapple with  
21 and should handle, and should have to meet the responsibility



1 of as representatives of the people. I don't think the  
2 people of this State should be misled on this, as anything  
3 but something that should be left to the legislature that  
4 they would decide for the benefit of all of the people,  
5 not on any moral question, not on whether the gamblers  
6 are going to take over Maryland, but whether or not it is  
7 something that some time in the future might be of benefit  
8 for the State of Maryland, and for that reason I think we  
9 should not have it in the Constitution.

10 THE PRESIDENT: Delegate Weidemeyer.

11 DELEGATE WEIDEMEYER: Mr. President, and members  
12 of the Convention: I feel that this article on lotteries  
13 has no proper place in our Constitution, because it is  
14 entirely a legislative matter.

15 Now, Delegate Sherbow has dangled a lot of fears  
16 and this is going to happen, and that is going to happen.  
17 I don't know where he gets his big imagination, but I would  
18 think that if he had any fears about what is in his  
19 article, he ought to have some fears about extending these  
20 bond issues for 25 years, and there is an area where there  
21 really will be some campaigning in the legislature to





1 get these long-term bonds with all the extra interest.  
2 That should worry him, not over prohibiting a legislature  
3 from entering a lottery.

4 He hasn't asked for a prohibition against horse  
5 racing, but a state-operated lottery. We don't know that  
6 the legislature is ever going to authorize it. Who knows  
7 that they will? And the legislature will not authorize  
8 it unless the people want it, and they can take it out on  
9 referendum, and not only do we have the little man on  
10 the street who objects to this prohibition being in here,  
11 because it knocks out any hope that he ever had of a  
12 decent way to spend his dollar, he is now relegated. He  
13 knows if you leave this in the Constitution that he has  
14 got to go and spend his 50 cents or his dollar in illegal  
15 channels, and there is no hope.

16 If you strike it out ther may be some hope in the  
17 future, and the legislature, as I say, may never pass it.  
18 But what does the Baltimore Sun say on December 13, 1967?  
19 I hope I have a chance to read it, because it is a very  
20 short article. It is headed "Skip It":

21 "The difficulty that the Consitutional Convention



1 delegates have had in reaching a common understanding of  
2 what constitutes lottery is striking evidence that the  
3 Maryland Gambling Study Commission says that the subject  
4 could more properly be treated by the General Assembly.  
5 As it is now, the Constitutional Convention has tentatively  
6 prohibited state or local governments from raising money  
7 through lotteries, but let the bars down for private  
8 entrepreneurs to conduct lotteries, or so the Commission  
9 fears. Presumably, the business Convention delegates  
10 could now reopen the lottery section and plug the hole to  
11 which the Commission headed by Clarence W. Miles has called  
12 attention, but a far easier and safer course is readily  
13 available. Drop lotteries as a Constitutional issue  
14 altogether, and leave the relatively inconsequential subject  
15 to Maryland legislators whose actions would be subject to  
16 public referendum, if they happened to go haywire.

17 "The Miles Commission suggests this easier  
18 course not because it is soft on lotteries, it opposes  
19 them, but because it has confidence in legislative wisdom.  
20 That should be good enough for the Constitutional Convention  
21 as well, and if you want to quote newspapers, quote our





1 people at home who speak in that vein as well as do the  
2 people who signed the petition that Delegate Kosakowski  
3 presented to you."

4 I urge you to strike such provision, and leave  
5 such garbage as this out of the Constitution.

6 THE PRESIDENT: Delegate Dukes.

7 DELEGATE DUKES: Mr. President, I have conferred  
8 with my desk mates, and while it is a dubious privilege,  
9 by flipping the coin I won the privilege of moving the  
10 question.

11 (The motion was duly seconded)

12 THE PRESIDENT: All in favor signify by saying  
13 Aye. Contrary No.

14 The ayes have it, and it is so ordered.

15 The question arises on the adoption of amendment  
16 4. The Clerk will ring the quorum bell.

17 The question arises on the adoption of amendment  
18 4. A vote Aye is a vote in favor of the amendment. A  
19 vote No is a vote against.

20 Cast your vote.

21 Have all delegates voted?



1 Delegate James Clark.

2 DELEGATE JAMES CLARK: No.

3 THE PRESIDENT: Delegate James Clark votes No.

4 Have all delegates voted? Any delegates desire  
5 to change their vote? The Clerk will record the vote.

6 There being 44 votes in the affirmative, and 60  
7 in the negative, the motion fails, and the amendment is  
8 rejected.

9 The Chair has two amendments not sponsored by more  
10 than one delegate. We will revert to those.

11 The first is amendment C, which Delegate Stern  
12 offered.

13 Do you still desire to offer the amendment,  
14 Delegate Stern?

15 DELEGATE STERN: In the words of the Sun  
16 editorial that Delegate Weidemeyer read, "skip it".

17 THE PRESIDENT: Thank you.

18 Delegate Grumbacher, do you desire to offer  
19 Amendment F?

20 DELEGATE GRUMBACHER: I do, yes, sir.

21 THE PRESIDENT: Pages will please distribute



1 amendment F. This will be amendment No. 5. The Clerk  
2 will read the amendment.

3 MR. QUILLEN: Amendment No. 5 to committee  
4 recommendation No. SF-2, 3, 4 and 5, as amended by Report  
5 No. S&D-10.

6 On page 6 Section 6.15. Supplementary Appropria-  
7 tions in line 17 after the letters "tion" add the words:  
8 "either from any surplus or".

9 THE PRESIDENT: The amendment is submitted  
10 by Delegate Grumbacher. Is there a second.

11 DELEGATE BENNETT: Second.

12 THE PRESIDENT: The Chair recognizes Delegate  
13 Grumbacher to speak to it.

14 DELEGATE GRUMBACHER: If I can find my way out  
15 of the forest here, sir.

16 This amendment does about what the previous  
17 amendment on the budget would have done. It allows the  
18 legislature to pass appropriation bills and use any  
19 surpluses to pay for those appropriations. That is the  
20 story on it.

21 I came down here as many people have told me, with





1 a deep conflict of interest. As a member of the Maryland  
2 Legislature, I came down here very deeply interested in  
3 strengthening that legislature, and I came down and I saw  
4 us here strengthening the judiciary, and it should have  
5 been strengthened, and strengthened the executive, and  
6 it should be strengthened; it should be strengthened the  
7 way we are strengthening it, but I found us not strengthening  
8 the legislature, but weakening its functions.

9 We have at present the most restrictive rules  
10 in our Constitution on the budget of any State in these  
11 United States, any of the 50, the most restrictive, and we  
12 have just increased the restrictions on the budget by  
13 tightening up the capital budget so that there is no room  
14 for the legislature to move around to be creative, to do  
15 what needs to be done.

16 I believe that it is improper for us to do this  
17 to our legislature. I believe that the legislature should  
18 be a co-equal of government: that it must be allowed  
19 to spend some money, money that has not been directed by  
20 the Governor. It must be allowed to create instead of to  
21 cut down, and that, my friends, is what we now do, and what



1 we will be doing in the long-term future if we pass this  
2 budgetary provision as it is.

3 It is true, Mr. President and Chairman Sherbow,  
4 that we had no debate on this subject of increasing the  
5 budget by the legislature. We did have a short yelling  
6 match, which I lost. We need this power in the legislature  
7 and we need it badly, because otherwise we will just try  
8 to cause trouble instead of trying to create new programs,  
9 and improve the programs we now have.

10 Thank you.

11 THE PRESIDENT: Delegate Sherbow.

12 DELEGATE SHERBOW: Mr. Chairman and ladies and  
13 gentlemen, this amendment is even worse than the other  
14 one dealing with the budget, because it goes much, much  
15 further. It looks innocuous but -- believe me -- it goes  
16 much, much further.

17 The other amendment limited the legislature's  
18 action to the amount of the Governor's expenditures, but  
19 this would not only allow the legislature to reduce the  
20 budget, but then having reduced it, using it for their  
21 own purposes and programs without providing the taxes,





1 but they could go a step further in this amendment and eat  
2 up the surplus as well, all without measuring up to the  
3 fiscal responsibility which has always marked us, namely,  
4 that these programs either follow their orderly course, or  
5 you provide the taxes for them if you want them to go into  
6 effect immediately.

7 I urge you to vote against this amendment.

8 THE PRESIDENT: Is there any further  
9 discussion? Are you ready for the question? The Clerk  
10 will ring the quorum bell.

11 The question arises on the adoption of  
12 amendment No. 5. A vote Aye is a vote in favor of the  
13 amendment. A vote No is a vote against. Cast your vote.

14 Have all delegates voted?

15 Delegate James Clark.

16 DELEGATE JAMES CLARK: No.

17 THE PRESIDENT: Delegate James Clark votes No.

18 Does any delegate desire to change his vote?

19 The Clerk will record the vote.

20 There being 36 votes in the affirmative, and  
21 65 in the negative, the motion is lost and the amendment



1 fails.

2 The Chair has no other amendments to any of the  
3 sections of these committee recommendations.

4 Are there any other amendments?

5 Delegate Hutchinson.

6 DELEGATE HUTCHINSON: Mr. President, I would  
7 like to vote "no". My switch is broken.

8 THE PRESIDENT: Delegate Hutchinson votes "no"  
9 on amendment 5. The correct tally is 36 affirmative and  
10 64 negative.

11 Any other amendments?

12 Delegate Barrick.

13 DELEGATE BARRICK: Mr. President, I am still  
14 concerned with section 6.03, and the amendment that we  
15 adopted uses the words "owned and operated as a farm."

16 Now, quite frankly, I don't know what it means to  
17 own something as a farm, and it seems to me that that  
18 language is somewhat unclear, and quite frankly I would  
19 prefer to go back to the language that came out of  
20 Style and Drafting, and therefore move that we reconsider  
21 the vote by which amendment 1-b passed.



1 THE PRESIDENT: I assume you mean amendment  
2 1 as amended by amendment 1-b.

3 DELEGATE BARRICK: That is correct.

4 THE PRESIDENT: Delegate Barrick moves that  
5 the Convention reconsider the vote by which amendment  
6 1 as amended by amendment 1-b was adopted.

7 Is there a second.

8 (The motion was duly seconded)

9 THE PRESIDENT: The motion is seconded.

10 The Chair recognizes Delegate Barrick to speak on  
11 the motion to reconsider. You can address your remarks  
12 both to reconsider and to the main question. It will save  
13 time to do so. Delegate Barrick.

14 DELEGATE BARRICK: Mr. President and members of  
15 the Convention ---

16 DELEGATE JOHNSON: Mr. President.

17 THE PRESIDENT: Delegate Johnson.

18 DELEGATE JOHNSON: A point of order.

19 THE PRESIDENT: State the point.

20 DELEGATE JOHNSON: Am I correct or inc orrect  
21 in assuming that a motion to reconsider in Convention must





1 lay over for one day?

2 THE PRESIDENT: A motion to reconsider a final  
3 vote taken on any question, I think is the language. That  
4 would not apply to this. This was a vote on an amendment.  
5 We have not yet voted on the committee recommendation.  
6 You would be correct as to reconsideration of a final vote.

7 DELEGATE JOHNSON: I didn't seriously disagree  
8 with it, but I didn't want to start a precedent that we  
9 would otherwise be stuck with for the rest of the  
10 Convention.

11 THE PRESIDENT: Delegate Barrick.

12 DELEGATE BARRICK: Mr. President, this amendment  
13 I apologize for taking the time that it requires, but  
14 this is very important to the counties who have as their  
15 main source of income agricultural counties. We were the  
16 leading agricultural county, and we were replaced by two  
17 other counties. It is very important that farm  
18 assessment classes be defined and understood by all.  
19 I don't know what it means to own something as a farm. I  
20 don't think the language is clear. I prefer to have the  
21 original language that was adopted by this Committee of



1 the Whole, but if we can't have that then I would prefer  
2 to go back to the language that was adopted by the Committee  
3 on Style, Drafting and Arrangement, and approved by the  
4 Committee on Finance and Taxation.

5 THE PRESIDENT: Anything further?

6 DELEGATE BARRICK: Nothing further.

7 THE PRESIDENT: Delegate Sherbow.

8 DELEGATE SHERBOW: I would urge you to approve  
9 the motion to reconsider, and the provision as it came  
10 out of Style and Drafting. Believe me when I tell you that  
11 this has been the subject of a great deal of study and of  
12 thought and debate, and it does do as close as we can come  
13 to providing the machinery to protect the State, protect  
14 the farm owner, the legitimate farm owner, and also to  
15 prevent the land speculator from getting away with anything  
16 improper, and I would like to see us go back to what  
17 originally was submitted to you, because then the legisla-  
18 ture and the State Tax Commission can then provide the safe-  
19 guards which are really needed.

20 THE PRESIDENT: Delegate James.

21 DELEGATE JAMES: Mr. President and fellow





1 delegates. I would like to support the motion. It seems  
2 to me that the original committee language as amended by  
3 the Style Committee is clear. It has the virtue of clarity.  
4 We have adopted an amendment which has all the handicaps  
5 of nebulousness, and I urge the support of the motion.

6 THE PRESIDENT: Are you ready for the question?  
7 Delegate Bennett.

8 DELEGATE BENNETT: Mr. President, I hope the  
9 Convention will reject this motion to reconsider. We have  
10 gone through this process. It is altogether possible for  
11 the legislature to define what the words Delegate Barrick  
12 is confused about. That is what the legislation provides.  
13 What we are trying to do is to knock the land speculator  
14 out, and it seems to me we ought to say it in so many  
15 words, and not hesitate, and hope with vague language that  
16 the courts somehow will come around to permitting these  
17 nefarious people to carry on their land speculation to the  
18 detriment of the taxpayers of my county.

19 THE PRESIDENT: Delegate Henderson.

20 DELEGATE HENDERSON: Mr. President and gentlemen:  
21 I would like to support the motion to reconsider. It seems



1 to me that the term "agricultural property" as defined  
2 by law is the best phrase that we can use. I, myself, have  
3 grave doubts as to the -- I recognize the difficulties  
4 of trying to classify something which perhaps defies  
5 classification; that is to exclude one person who has a  
6 motive - a profit motive, that is, the speculator, if he  
7 is actually farming, and the farmer who may have speculative  
8 motives in continuing what is a losing enterprise, because  
9 he hopes to gain in the future, but if it is possible to  
10 make that distinction between those two and make a classi-  
11 fication which will stand up under the equal protection of  
12 the laws, it seems to me that the phrase "agricultural  
13 property" as defined comes closer to it than anything because  
14 it gives to the legislature to define what is agricultural  
15 and what is not within the meaning of that phrase, so I  
16 think that you have the best chance of success of drawing  
17 this line with those words than you do with the others.

18 THE PRESIDENT: Are you ready for the question?  
19 The question arises on the motion to reconsider the vote  
20 by which amendment 1 as amended by amendment 1-b was  
21 adopted. A vote Aye is a vote in favor of reconsideration.



1 A vote No is a vote against.

2 If the motion to reconsider passes, you will  
3 have amendment 1 as amended by amendment 1-b before you.  
4 This is not a vote on the adoption or rejection of  
5 amendment 1, but merely a vote for reconsideration.

6 A vote Aye, a vote in favor of reconsideration.  
7 A vote No, a vote against. Cast your vote.

8 Has every delegate voted?

9 Does any delegate desire to change his vote?  
10 The Clerk will record the vote.

11 There being 81 votes in the affirmative, and  
12 26 in the negative, the motion is carried.

13 You have now before you amendment 1 as amended  
14 by 1-b. Is there any further discussion? Are you ready  
15 for the question?

16 Delegate Clagett.

17 DELEGATE CLAGETT: I have a question of Delegate  
18 Sherbow:

19 What has caused all the difficulty, Delegate  
20 Sherbow, is the change of language. Can't we go back to  
21 the original language and make everybody happy?





1 THE PRESIDENT: Delegate Sherbow.

2 DELEGATE SHERBOW: I would be perfectly content  
3 to go back to the original language. I will take either  
4 of the two, because in my judgment they each mean the  
5 same. If we can get to the point where you vote on what  
6 Style has done, and then you go on to the other one, that  
7 is your privilege. But leaving it where it is right now  
8 is what is making all the trouble.

9 THE PRESIDENT: Delegate Clagett.

10 DELEGATE CLAGETT: Then, if we can go back  
11 to the original language before Style changed it, which  
12 caused all this difficulty, I would certainly follow the  
13 route, whatever may be the proper route to get there.

14 THE PRESIDENT: I suggest to you, Delegate  
15 Clagett, that the question now is on the adoption of the  
16 amendment 1. If amendment 1 is rejected, the section is  
17 open to further amendment.

18 Delegate Hanson.

19 DELEGATE HANSON: Mr. President, I urge the  
20 Convention not to reject this amendment on reconsideration,  
21 but to retain it as you placed it in the draft Constitution



1 in the first instance. There are, indeed, problems. In  
2 the agricultural assessment area of distinguishing on the  
3 basis of motives between a person who is farming, owning and  
4 operating a farm, and a person who owns land which he  
5 may devote to some agricultural use, but owns it for a  
6 purpose which is not agricultural, but mainly speculative.  
7 This is the problem. This is the sum and substance of the  
8 problem in agricultural assessment, because what we are doing  
9 is asking assessors who are trained to make judgments on the  
10 sale value of land to make judgments about the intent of the  
11 owners of the land, so in order to really handle this  
12 problem and to do what we have all said what we want to do  
13 to help the bona fide farmer, and not to help the speculator,  
14 we must have a section that leaves the legislature to define  
15 by law, not just the property and the way it is used, but  
16 to define by law classes of property owners, as well, if they  
17 are going to handle this particular problem. There are many  
18 other problems related to preferential assessment of  
19 agricultural land or land devoted to agricultural use.

20 I will call your attention again to the  
21 committee report itself as it came before the Committee of





1  
2 the Whole, which indicates very clearly not only that this  
3 clause itself is not needed, but if we are to take account  
4 of the needs of the investor in land, and I believe that  
5 some investors in land do need special tax privileges, but  
6 we have ample power in the first segment of this section  
7 to do that. We can create a special class of taxpayers to  
8 meet the problems of those persons.

9           What we are dealing with here are the problems  
10 of the farmer, and if we are going to meet those problems  
11 that we mandate the General Assembly to meet. I urge  
12 you to retain the amendment.

13           THE PRESIDENT: Are you ready for the question?  
14 The Clerk will ring the quorum bell.

15           The question arises on the adoption of amendment  
16 No. 1 as amended by amendment 1-b.

17           So that there will be no misunderstanding, the  
18 effect of amendment 1 as amended by amendment 1-b is to  
19 substitute for lined 12, 13 and 14 on page 2 the following:  
20 "which classes shall include property owned and operated  
21 as farms as defined by the General Assembly by law."



1 A vote Aye is a vote in favor of that amendment.

2 A vote No is a vote against. Cast your vote.

3 Has every delegate voted? Does any delegate  
4 desire to change his vote?

5 The Clerk will record the vote.

6 There being 38 votes in the affirmative and  
7 63 in the negative, the amendment fails. Amendment  
8 1 as amended by amendment 1-b is rejected.

9 The Chair has no further amendments. Are you  
10 ready for the question on the adoption of committee  
11 recommendation SF-2, SF-3, SF-4 and SF-5 as amended?

12 The Clerk will ring the quorum bell.

13 The question arises on the adoption on second  
14 reading of committee recommendation SF-2, 3, 4 and 5 as  
15 amended. A vote Aye is a vote in favor of adoption  
16 of committee recommendations as amended. A vote No is  
17 a vote against.

18 Cast your vote.

19 Has every delegate voted? Does any delegate  
20 desire to change his vote?

21 The Clerk will record the vote.



1           There being 82 votes in the affirmative and 23  
2           in the negative, committee recommendation SF-2, SF-3, SF-4  
3           and SF-5 as amended is adopted on second reading.

4           There have now been printed and distributed,  
5           I believe, the copies of all reports of the Committee on  
6           Style, Drafting and Arrangement. This includes all  
7           committee recommendations which have been received. There  
8           are some that have not yet been read across the desk.

9           Mr. Clerk, the Committee, on Style, Drafting  
10          and Arrangement Report No. S&D-15.

11          MR. QUILLEN:   Committee on Style, Drafting and  
12          Arrangement Report No. S&D-15. This report covers matters  
13          in Committee of the Whole Report No. 29. A report concerning  
14          Committee Recommendation No. JB-2.

15          THE PRESIDENT: This report is referred to the  
16          Committee on Calendar and Agenda.

17          Report of the Committee on Style, Drafting and  
18          Arrangement, report No. S&D-16. The Clerk will read the  
19          report.

20          MR. QUILLEN:   Committee on Style, Drafting and  
21          Arrangement Report No. S&D-16. This report covers matters





1 in Committee of the Whole Report No. 4, 11, 28, a report  
2 concerning Committee Recommendations Nos. LB-1, LB-2, and  
3 LB-3.

4 THE PRESIDENT: The report will be referred to  
5 the Committee on Calendar and arrangement.

6 The report of the Committee on Style No. S&D-17.  
7 The Clerk will read the report.

8 MR. QUILLEN: Committee on Style, Drafting and  
9 Arrangement Report No. S&D-17. This report covers matters  
10 in Committee of the Whole Report No. 24, 25, 26 and 32.  
11 A report concerning Committee Recommendations Nos. GP-7,  
12 GP-8, GP-9, GP-12, R&P-1, and LB-3.

13 THE PRESIDENT: The report will be referred  
14 to the Committee on Calendar and Agenda.

15 All of the reports of the Committee on Style  
16 will be on the calendar for action tomorrow.

17 Delegate Powers will shortly move for adjournment  
18 until noon tomorrow. This will give you until noon to  
19 prepare amendments with respect to all reports other than  
20 those which you have heretofore received.

21 The Chair assumes that any amendments desired



1 with respect to committee recommendations R&)-1 and R&P-2  
2 have already been prepared. They will be the first items  
3 on the agenda at noon tomorrow. They will be followed  
4 by committee recommendations JB-3, EB-1 and 2, LB-1, 2  
5 and 3, and then the various "GP" recommendations in that  
6 order.

7 Delegate James.

8 DELEGATE JAMES: Will you repeat that, please.  
9 I wo-ldlike to write it down.

10 THE PRESIDENT: The agenda will start with the  
11 consideration of Committee recommendations R&P-1 and R&P-2.  
12 Following that will be committee recommendation JB-2.  
13 Following that will be committee recommendation EB-1 and  
14 EB-2. Following that will be legislative branch  
15 recommendations LB-1, LB-2 and LB-3. Following that will be  
16 a long series of short recommendations of the Committee on  
17 General Provisions. These will include all provisions in  
18 the Constitution proper, not including the schedule of  
19 transitional provisions.

20 For what purpose does Delegate Kiefer rise?

21 DELEGATE KIEFER: Mr. President, we did not





1 consider R&P-1 and R&P-2, I understand, because there  
2 was to be a corrected report, and we have not seen that  
3 corrected report.

4 Can you give us some light on that?

5 THE PRESIDENT: The Chair was in error in stating  
6 that the report would be reprinted. There were several  
7 corrections, but they can be made orally. They are only  
8 to change the word "provide" to "prescribe" and I think  
9 one typographical error. The report which had to be  
10 reprinted was the one which we have just considered.

11 Any announcements necessary to be made by the  
12 committee chairmen?

13 Delegate Boyer.

14 DELEGATE BOYER: Mr. President, I again would  
15 like to remind committee members of General Provisions  
16 that there will be a very important meeting tomorrow  
17 morning at 9:30 in committee headquarters.

18 THE PRESIDENT: Delegate Dulany.

19 DELEGATE DULANY: Mr. President, the Committee  
20 on Public Information will meet tomorrow morning at 11  
21 o'clock.



1 THE PRESIDENT: Delegate Mudd.

2 DELEGATE MUDD: Can the Chair advise whether  
3 the schedule for committee pictures is as circulated for  
4 tomorrow?

5 THE PRESIDENT: Delegate Dulany, do you happen  
6 to know what the picture schedule is? Does the meeting  
7 at 12 interfere with any of them?

8 DELEGATE DULANY: I think the picture schedule  
9 can be rearranged without any difficulty. Perhaps we can  
10 notify the committee chairmen the first thing in the  
11 morning.

12 THE PRESIDENT: We will endeavor to do that. We  
13 would like to complete the pictures tomorrow morning if  
14 possible.

15 Delegate Penniman.

16 DELEGATE PENNIMAN: There will be a meeting of  
17 the Committee on Style, Drafting and Arrangement at 11:30  
18 tomorrow.

19 THE PRESIDENT: They are taking a vacation.

20 Delegate Mudd.

21 DELEGATE MUDD: May I ask all members of the



1 Committee on Judicial Branch to assemble in room H-9 at  
2 11:30 tomorrow morning?

3 THE PRESIDENT: Any other announcements by  
4 committee chairmen?

5 Delegate Dulany.

6 DELEGATE DULANY. Since so many pictures have  
7 been scheduled around noon or shortly thereafter, perhaps  
8 we can have the photographer in the building from 11:30  
9 until noon, and if the committee members will be available  
10 we can arrange to have the pictures taken between 11:30  
11 and noon, and I will contact the committee chairmen to  
12 set up a schedule with them.

13 THE PRESIDENT: Any other announcements?

14 Delegate Needle.

15 DELEGATE NEEDLE: Mr. President, I rise to a  
16 point of personal privilege.

17 THE PRESIDENT: State the privilege.

18 DELEGATE NEEDLE: I would like the Convention  
19 to give a belated welcome to some visitors in the gallery.  
20 They are the family of our hard working clerk better known  
21 as the Poet Laureate of the Convention, and includes his





1 wife, Sylvia, and his in-laws, Mr. and Mrs. Michael Kapper.  
2 They braved the elements of this evening and stayed with  
3 us until this late hour, and I hope you will give them a  
4 warm welcome. (Applause)

5 THE PRESIDENT: Any other announcements.

6 Delegate Bamberger.

7 DELEGATE BAMBERGER: I would ask the Convention  
8 to congratulate one of the members who deserves congratu-  
9 lations for restraining himself on the floor and, secondly,  
10 today is his birthday. That is Delegate Abramson. (Applause)

11 THE PRESIDENT: Delegate Fornos.

12 DELEGATE FORNOS: A point of personal privilege,  
13 Mr. President.

14 THE PRESIDENT: State the privilege.

15 DELEGATE FORNOS: Most of us have widows --  
16 Convention widows -- at home, but some of our female  
17 workers and delegates have widowers, and I would like the  
18 Convention to welcome Buddy Marx, the husband of our Chief  
19 Page. (Applause)

20 THE PRESIDENT: Any other announcements?

21 The Chair recognizes Delegate Powers.



1 DELEGATE POWERS: Mr. President, I move we  
2 adjourn until 12 o'clock noon tomorrow.

3 THE PRESIDENT: Before adjourning, all delegates  
4 not present at roll call desiring to indicate their  
5 presence may do so on supplemental roll call.

6 The Clerk will record the supplemental roll call.

7 All in favor of adjourning until 12 o'clock noon  
8 tomorrow indicate by saying Aye. Contrary No.

9 The Ayes have it, and it is so ordered. We will  
10 adjourn until 12 o'clock tomorrow, noon.

11 (Whereupon, at 11:55 o'clock p.m., the  
12 Convention adjourned until tomorrow, Friday, December 29,  
13 1967, at 12 o'clock noon.)  
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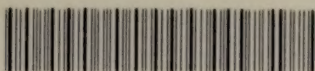








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